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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEP 17 2009

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT YAKIMA

TECK METALS LTD., and  
HISTORY ASSOCIATES  
INCORPORATED,

Plaintiffs,

v.

UNITED STATES BUREAU OF  
INDIAN AFFAIRS.

Defendant.

No. **CV-09-290-EFS**

**COMPLAINT FOR VIOLATION  
OF FREEDOM OF  
INFORMATION ACT**

PLAINTIFFS' COMPLAINT FOR VIOLATION  
OF FREEDOM OF INFORMATION ACT 1

LAW OFFICES  
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A PROFESSIONAL SERVICE CORPORATION  
1600 WASHINGTON TRUST FINANCIAL CENTER  
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1 Plaintiffs Teck Metals Ltd. ("Teck") and History Associates Incorporated  
2 ("HAI") (collectively, "Plaintiffs") bring this suit under the Freedom of Information  
3 Act ("FOIA"), 5 U.S.C. section 552, to compel Defendant United States Bureau of  
4 Indian Affairs ("BIA") to produce records the BIA has wrongfully and improperly  
5 withheld from production under FOIA.

6 This case arises from BIA's failure to timely respond to Plaintiffs' properly  
7 served FOIA request, and its failure to provide records in the custody and control of  
8 BIA regarding mining activities on reservation lands of the Confederated Tribes of the  
9 Colville Reservation ("Colville Tribes"). The FOIA request was served in  
10 conjunction with defense efforts in the *Pakootas, et al. v. Teck Cominco Metals Ltd.*,  
11 No. CV-04-0256-LRS, case in the Eastern District of Washington ("*Pakootas*  
12 litigation"). It is important that Teck promptly obtain these records in support of its  
13 defense in the *Pakootas* litigation as it is likely that the mines on the Colville  
14 Reservation contributed hazardous substances to the Upper Columbia River and Lake  
15 Roosevelt.

### 16 JURISDICTION

17 1. This Court has jurisdiction over this action pursuant to 5 U.S.C.  
18 section 552(a)(4)(B) and 28 U.S.C. section 1331.

19 2. Venue in the Eastern District of Washington is proper under 5 U.S.C.  
20 section 552(a)(4)(B) because, on information and belief, documents responsive to  
21 Plaintiffs' FOIA request and under the custody and control of BIA are located in the  
22 Eastern District of Washington.  
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## PARTIES

3. Teck Metals Ltd. is a Canadian company with operations located in Trail, B.C., Canada. As a Canadian company, it is entitled to seek records pursuant to FOIA pertinent to its defense against claims made against its interests in the United States.

4. History Associates Incorporated is a Maryland corporation with its principal place of business in Rockville, MD. At the direction of Teck and for the benefit of Teck and its counsel of record in the *Pakootas* litigation, HAI served the FOIA requests that are the subject matter of this litigation.

5. The United States Department of the Interior, Bureau of Indian Affairs is a subsidiary agency of the federal Department of the Interior ("DOI") and is generally responsible for the administration and management of sixty-six million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. The BIA was the recipient of the FOIA request at issue in this litigation. As a federal agency, BIA is legally required to comply with the requirements of FOIA.

## FACTS

### HAI's Initial FOIA Request and BIA Initial Response

6. On May 8, 2008, HAI, on behalf of Teck, filed a FOIA request with the BIA. The request sought, in general, documents held by BIA concerning mining activity, operations, exploration, prospects and development located on the Colville Reservation, from the nineteenth century to the present day. Attached hereto as Exhibit A, and incorporated herein by reference is the May 8, 2008 FOIA request to BIA.

7. The May 8 FOIA request specifically sought documents, information and correspondence which may be located in Ferry and Okanogan Counties and at the Spokane District Court – locations within the Eastern District of Washington. The

1 May 8 FOIA request also indicated that responsive documents would likely be found  
2 at BIA headquarters in Washington, DC, at BIA's Division of Energy and Resources  
3 Management and its Division of Natural Resources, at BIA's Northwest Regional  
4 Office in Portland, Oregon, and at the Federal Records Center in Lenexa, Kansas. The  
5 FOIA request also sought access to responsive materials held by the BIA Deputy  
6 Directors for Trust Services, Field Operations, and Tribal Services. *See* Exhibit A.

7 8. The documents, information and correspondence requested by Plaintiffs  
8 are "records" within the meaning of FOIA. 5 U.S.C. section 552(f)(2).

9 9. BIA acknowledged receipt of the FOIA request in a letter dated May 12  
10 and assigned it Control No. 08533. In the letter, BIA informed HAI that its Northwest  
11 Region Office would advise HAI of the status of the FOIA within "twenty workdays  
12 upon receiving the request in their office." Attached hereto as Exhibit B, and  
13 incorporated herein by reference is the May 12, 2008 BIA Acknowledgement Letter.

14 10. Despite its assurances of a timely response, BIA failed to timely provide  
15 such a response within twenty working days of BIA's acknowledgment of Plaintiffs'  
16 May 8, 2008 FOIA request.

17 11. FOIA requires that each recipient agency to determine within  
18 twenty days after the receipt of any FOIA request whether to comply with such  
19 request, and further requires the agency to immediately notify the person making such  
20 request of its determination and the reasons therefore (*see* 5 U.S.C.  
21 § 552(a)(6)(A)(i)). Nonetheless, BIA did not timely respond to the May 8 FOIA  
22 request. In fact, BIA failed to respond until November 24, 2008, more than six  
23 months after its receipt of the May 8 FOIA request. Attached hereto as Exhibit C, and  
24 incorporated herein by reference is BIA's November 24, 2008 response letter.

12. In that letter, BIA's Central Office headquarters informed HAI that it had split the responsibility for responding to FOIA request among three different sub-organizations of BIA: (1) BIA's Central Office Headquarters in Washington, D.C.; (2) BIA's Division of Energy and Mineral Development in Denver, Colorado; and (3) BIA's Northwest Regional Office, in Portland, Oregon.

13. The May 8 FOIA request did not ask BIA to segregate the responsibility for responding to the FOIA among the three sub-organizations denoted by BIA. Moreover, on information and belief, HAI and Teck believe documents under the custody and control of BIA exist or existed at additional locations not noted in BIA's November 24 letter. These locations may include, but are not limited to county offices located in Ferry and Okanogan Counties, the Spokane District Court, the United States Bureau of Land Management, the Spokane District Office of the Bureau of Land Management, the United States Geological Survey, the United States Bureau of Mines, the United States Minerals Management Service, the Washington State Division of Geology, the Washington State Department of Natural Resources, and the Federal Records Center in Lenexa, Kansas.

14. Nonetheless, to this date, approximately sixteen months after Plaintiffs filed their initial FOIA request and despite numerous communications between Plaintiffs and BIA, Plaintiffs have not received any documents responsive to the FOIA request from BIA, including any of the above-named sub-organizations of BIA.

#### **BIA Central Office Headquarters Response and Appeal**

15. BIA's November 24 letter also indicated that as to the Central Office, BIA's Central Office headquarters had searched the locations of Office of Trust Services, Office of Indian Services, and Office of Facilities, Environmental, and

1 Cultural Resources in Washington, D.C., and had not located any responsive  
2 documents. *See* Exhibit C.

3 16. Teck and HAI timely appealed the BIA's Central Office headquarters'  
4 response that it had located no responsive documents, "based on the fact that it is well  
5 known that the Colville Reservation was historically a location of significant hard  
6 rock and placer mining, and income from such mining would, in some instances, be  
7 collected and held in trust for the Colville Tribe." Attached hereto as Exhibit D, and  
8 incorporated by reference is Plaintiffs' December 18, 2008 letter of appeal.

9 17. FOIA requires each recipient agency to consider an appeal within twenty  
10 days, *see* 5 U.S.C. section 552(a)(6)(A)(ii). BIA has completely failed to consider the  
11 appeal within the statutory timeframe.

12 18. After the statutory period for BIA to respond to Plaintiffs' appeal  
13 elapsed, Plaintiffs had administratively exhausted their appeal. 5 U.S.C.  
14 § 552(a)(6)(C).

15 19. To this date, approximately nine months after Plaintiffs' appeal was filed,  
16 BIA has failed to respond to Plaintiffs' December 18 appeal.

17 20. To this date, approximately 16 months after Plaintiffs' initial FOIA  
18 request, BIA's Central Office Headquarters has failed to provide Plaintiffs with any  
19 responsive documents. As set forth below, neither of the other two sub-organizations  
20 of BIA identified over eight months ago by BIA's Central Office headquarters has  
21 provided any responsive documents either.

### 22 **BIA Division of Energy and Mineral Development**

23 21. The second sub-organization that BIA allocated for response to the May  
24 8 FOIA request was the Division of Energy and Mineral Development. The BIA  
25 Central Office response letter of November 24, 2008, stated that that BIA's Division  
26

1 of Energy and Mineral Development had reported to Central Office on September 4,  
2 2008 that it held an estimated fifteen cubic feet of files and five boxes of records  
3 potentially responsive to the FOIA request, and that these documents needed to be  
4 reviewed by the Solicitor's Office. *See* Exhibit C.

5 22. HAI communicated by telephone regarding the FOIA request on  
6 December 12, 2008 with the Chief of BIA's Division of Energy and Mineral  
7 Development, Mr. Stephen Manydeeds.

8 23. During the telephonic communication between HAI and Mr. Manydeeds  
9 on December 12, 2008, Mr. Manydeeds stated in effect that "he saw himself and his  
10 staff as defenders and advocates for tribes first, and as federal civil servants second."

11 24. During the above-noted telephone call Mr. Manydeeds also informed  
12 HAI that (in addition to the fifteen feet of files and five boxes mentioned in the  
13 November 24 letter) there were actually many more boxes of responsive materials.

14 25. In a voicemail message to HAI on January 29, 2009, Mr. Manydeeds  
15 stated that the Division solicitor had finished the review of those documents and was  
16 formulating a response as to what records would be released.

17 26. Nearly three months later, rather than provide the promised response  
18 from the Division Solicitor, on April 28, 2009, the Director of BIA's Office of Indian  
19 Energy and Economic Development, Mr. Robert W. Middleton, Mr. Manydeeds'  
20 superior, sent a letter to HAI stating that BIA had classified the request as a  
21 "commercial-use" request and that the "commercial-use" designation requires the  
22 FOIA requester to pay for the cost of searching for, reviewing, and duplicating  
23 responsive records. Attached hereto as Exhibit E, and incorporated herein by  
24 reference is Mr. Middleton's April 28, 2009 Letter.  
25  
26

1           27. Plaintiffs' request is not properly designated as a "commercial-use"  
2 request, which is defined as a "request from or on behalf of one who seeks  
3 information for a use or purpose that furthers the commercial, trade, or profit interests  
4 of the requester or the person on whose behalf the request is made." Plaintiffs request  
5 is not for commercial, trade or profit interests, it is for use in litigation. *See* Office of  
6 Management and Budget, Uniform Freedom of Information Act Fee Schedules and  
7 Guidelines at section 6(g), 52 Fed. Reg. 10,018 (Mar. 27, 1987) and United States  
8 Department of the Interior Freedom of Information Act regulations 43 C.F.R. § 2.3(e).

9           28. The Middleton Letter said that the likely number of pages responsive to  
10 our request was "too voluminous for us to process without a promise to pay at least  
11 \$4,500.00, therefore, we are asking for your promise to pay before we can begin  
12 processing your request." *See* Exhibit E.

13           29. BIA also noted that another option to reduce costs would be to reduce the  
14 scope of the FOIA request. The Middleton Letter provided twenty working days to  
15 clarify the scope of Plaintiffs' request and resolve the fee issue. *See* Exhibit E.

16           30. Mr. Middleton concluded his letter by stating that BIA FOIA Coordinator  
17 Susan Stewart-Flannagan, of the Office of Indian Energy and Economic Development,  
18 would be the new point of contact for the FOIA request.

19           31. On May 15, 2009, within twenty working days of the date of the  
20 Middleton Letter, HAI responded to the Middleton Letter and clarified that Plaintiffs  
21 did not wish to alter the scope of the original request, and, although Plaintiffs' request  
22 is not properly designated as a "commercial-use" request, Plaintiffs promised to pay  
23 up to \$4,500 in costs. Attached hereto as Exhibit F, and incorporated by reference is  
24 Plaintiffs' May 15, 2009 response letter.



1           32. HAI requested notification before BIA reached the initial \$4,500 ceiling,  
2 along with an estimate for any additional costs to continue the processing work, so  
3 that Plaintiffs could, if they agreed, provide authorization for BIA to continue. *See*  
4 Exhibit F.

5           33. BIA did not respond after Plaintiffs promised to pay the \$4,500  
6 demanded by BIA. Nor did BIA provide Plaintiffs with any responsive documents.

7           34. BIA violated FOIA by failing to respond within the statutory time period.  
8 5 U.S.C. § 552(a)(6)(A)(i).

9           35. After the statutory period elapsed, Plaintiffs had exhausted their  
10 administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C)(i).

11           36. On June 25, 2009 Plaintiffs notified the BIA Division of Energy and  
12 Mineral Development of Plaintiffs' exhaustion of administrative remedies and  
13 Plaintiffs' right to file an action in federal district court to compel the release of  
14 improperly withheld documents. Attached hereto as Exhibit G, and incorporated by  
15 reference is Plaintiffs' June 25, 2009 notification letter.

16           37. Instead of providing Plaintiffs with responsive documents, on July 8,  
17 2009, BIA FOIA Coordinator Susan Stewart-Flannagan informed HAI that the DOI  
18 Solicitor's office would again review the Division of Energy and Mineral  
19 Development records during the week of July 27, 2009. Attached hereto as Exhibit H,  
20 and incorporated by reference is BIA FOIA Coordinator Susan Stewart-Flannagan's  
21 July 8, 2009 email to HAI.

22           38. On August 12, 2009, BIA FOIA Coordinator Susan Stewart-Flannagan  
23 informed HAI that BIA attorneys had reviewed all documents potentially responsive  
24 to HAI's FOIA request. Instead of stating that BIA would be providing Plaintiffs with  
25 responsive documents, she indicated that "it has been determined that further  
26

1 consultation with the Department's legal office is necessary to ensure the rights and  
 2 privileges of all parties concerned are protected." Attached hereto as Exhibit I, and  
 3 incorporated herein by reference is BIA FOIA Coordinator Susan Stewart-  
 4 Flannagan's August 12, 2009 email to HAI.

5 39. Plaintiffs have yet to receive a formal response from the BIA Division of  
 6 Energy and Mineral Development granting or rejecting the FOIA request.

7 40. BIA violated FOIA by failing to respond within this period. 5 U.S.C.  
 8 § 552(a)(6)(A)(i).

9 41. After the statutory period elapsed, Plaintiffs had exhausted their  
 10 administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

11 42. To this date, BIA's Office of Indian Energy and Economic Development  
 12 has failed to provide Plaintiffs with any responsive documents, despite the fact that the  
 13 Division of Energy and Mineral Development has known for over one year that it has  
 14 potentially responsive documents in its possession, despite the fact that the documents  
 15 have been reviewed by the Solicitor's Office, and despite the fact that Plaintiffs have  
 16 agreed to pay up to \$4,500 as demanded by BIA.

#### 17 **BIA Northwest Regional Office**

18 43. The third sub-organization of BIA identified in its Central Office letter of  
 19 November 24, 2008 is the BIA Northwest Regional Office. That office failed to  
 20 contact the requesting parties, and on December 8, 2008, concerned by the extensive  
 21 delay, HAI telephonically contacted the BIA Northwest Regional Office FOIA  
 22 Coordinator Marie Howerton. She indicated that all of the responsive records in the  
 23 Northwest Regional Office were "likely" sent to the BIA Division of Energy and  
 24 Mineral Development, in Lakewood, Colorado.

1           44. The Northwest Regional Office FOIA Coordinator also stated in the  
2 telephone conversation with HAI on December 8, 2008 that her staff had not been  
3 able to find any responsive documents in one of the identified repositories, the Federal  
4 Records Center in Lenexa, Kansas. She further stated that the Lenexa, Kansas staff  
5 members were "new," and did not know how to do the searches required by the FOIA  
6 request.

7           45. HAI informed the Northwest Regional Office FOIA Coordinator that  
8 HAI had developed information indicating that responsive documents did, in fact,  
9 exist at Lenexa. The Northwest Regional Office FOIA Coordinator then promised to  
10 call the Federal Center in Lenexa and attempt to get the staff working on the FOIA  
11 request, and said that this portion of BIA's FOIA response would "remain open"  
12 through the Northwest Regional Office.

13           46. After nine months, the BIA Northwest Regional Office formally  
14 responded to the May 8, 2008 FOIA request in a letter dated February 3, 2009, stating  
15 it had searched the Northwest Regional Office and the Colville Agency, and had  
16 located no responsive documents. The BIA Northwest Regional Office stated that the  
17 Division of Energy and Mineral Development, referenced above, "provides oversight  
18 responsibility for mining operations for the Bureau of Indian Affairs." BIA made no  
19 mention of the results of its promised search in Lenexa. Attached hereto as Exhibit J,  
20 and incorporated by reference is BIA Northwest Regional Office's February 3, 2009  
21 Response.

22           47. Since the letter of February 3, the BIA Northwest Regional Office has  
23 made no further contact with Plaintiffs.

24           48. BIA has never formally responded regarding its promise to have staff re-  
25 check at Lenexa.  
26

1 49. After the statutory period elapsed, Plaintiffs had exhausted their  
2 administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

3 50. To this date, the BIA Northwest Regional Office has provided no  
4 responsive documents to Plaintiffs, nor has the Northwest Regional Office provided  
5 any information regarding the search at Lenexa.

6 **CLAIM I**

7 **Failure to Respond to Requests Within Statutory Time Limits**

8 **5 U.S.C. § 552(a)(6)(A), 5 U.S.C. § 552(a)(6)(C)**

9 51. Paragraph Nos. 1 through 50 are incorporated herein by reference.

10 52. Plaintiffs requested BIA records pursuant to FOIA.

11 53. BIA has cited no valid legal basis to withhold production of the requested  
12 information, indeed admitting that it has responsive information.

13 54. BIA's repeated failure, within three separate sub-organizations of the  
14 agency, to respond to Plaintiffs' initial and subsequent clarifying requests  
15 constructively exhausted Plaintiffs' administrative remedies.

16 55. BIA is in violation of its obligations under FOIA to timely respond and  
17 produce documents.

18 **CLAIM II**

19 **Failure to Respond to Administrative Appeal Within Statutory Time Limits**

20 **5 U.S.C. § 552(a)(6)(A), 5 U.S.C. § 552(a)(6)(C)**

21 56. Paragraph Nos. 1 through 55 are incorporated herein by reference.

22 57. Plaintiffs requested BIA records pursuant to FOIA.

23 58. BIA has cited no valid legal basis to withhold production of the requested  
24 information.  
25  
26

1 59. BIA's failure, within BIA's Central Office Headquarters, to respond to  
 2 Plaintiffs' December 18, 2008 appeal within the statutorily prescribed time limits  
 3 exhausted Plaintiffs' administrative appeal.

4 60. BIA is in violation of its obligations under FOIA to timely respond and  
 5 produce documents.

#### 6 **REQUEST FOR EXPEDITED PROCEEDINGS**

7 61. Paragraph Nos. 1 through 60 are incorporated herein by reference.

8 62. Plaintiffs requested the agency records approximately sixteen months  
 9 ago.

10 63. Trial in Phase I of the *Pakootas* litigation is scheduled for October 4,  
 11 2010, factual discovery must be completed by February 28, 2010, and parties must  
 12 exchange expert reports no later than March 31, 2010. Attached herein as Exhibit K  
 13 and incorporated by reference is the Scheduling Order Re Phase I Litigation in the  
 14 *Pakootas, et al. v. Teck Cominco Metals Ltd.*, No. CV-04-0256-LRS case.

15 64. Teck's defense of the *Pakootas* litigation requires the immediate review  
 16 and potential use of these records.

17 65. "Good cause" therefore exists for expediting these proceedings pursuant  
 18 to 28 U.S.C. § 1657 and 5 U.S.C. § 552(a)(4)(C).

#### 19 **OTHER REQUESTED RELIEF**

20 Plaintiffs request that the Court award the following relief:

- 21 A. Provide for expedited proceedings in this action;
- 22 B. Declare that Defendant's failure to timely respond to Plaintiffs' FOIA
- 23 requests is unlawful;
- 24
- 25
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1 C. Declare that Defendant's failure to timely respond to Plaintiffs'  
2 administrative appeal is unlawful;

3 D. Order BIA and DOI to immediately disclose the requested records to  
4 Plaintiffs;

5 E. Award Plaintiffs their costs and attorneys' fees incurred in this action;  
6  
7 and

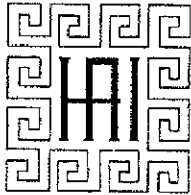
8 F. Grant such other relief as the Court may deem just and proper.  
9

10 DATED: September 17, 2009.

11 LUKINS & ANNIS, P.S.

12  
13 By 

14 EUGENE I. ANNIS, WSBA# 2112  
15 LAURA J. BLACK, WSBA# 35672  
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May 8, 2008

Ms. Laura Cloud  
Freedom of Information Act Coordinator  
U.S. Bureau of Indian Affairs  
MS-3071, MIB  
1849 C Street, NW  
Washington, DC 20240

**VIA FEDERAL EXPRESS**

Dear Ms. Cloud:

Pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552), I am hereby requesting copies of any and all documents held by the U.S. Bureau of Indian Affairs (BIA) concerning mining operations, active and non-active mines, and mine exploration, prospects, and development located on the Colville Indian Reservation in the State of Washington.

Specifically, I am interested in receiving copies of any documentation possessed by BIA and reflecting or describing such activity on the Colville Reservation from the nineteenth century to the present day. Such documentation may include, but may not be limited to, the following types of documents:

Any and all mining agreements, leases, contracts, field notes, deeds, allotment records, claim forms, affidavits, statements, mine inspection or investigation reports, summaries, statistical data, mines and mining plans, maps, blueprints, and photographs in BIA's possession or custody concerning mines and mining on the Colville Reservation.

Any and all reports, studies, and memoranda regarding mines and mining on the Colville Reservation prepared by BIA headquarters, the BIA's Portland, Oregon, regional office (overseeing reservation activity including that on the Colville Reservation), or any other BIA offices or branches with an interest in mines and mining on the Colville Reservation. Also of interest are any reports and memoranda on this topic received by any BIA offices from other sources, including but not limited to, other federal agencies, Washington state agencies, Washington local government agencies, the *Colville Indian Tribe* and *Colville Tribal Business Council*, other Colville Indian offices or consultants, and private mining companies or individuals interested in mining on the reservation.

Any and all official BIA correspondence, between BIA offices or between BIA and other addressees including, but not limited to, the *Colville Indian Tribe* and *Colville Tribal Business Council*, other Colville Indian offices or consultants, private mining

**EXHIBIT "A"**



Reis to Laura Cloud, May 8, 2008

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companies or individuals interested in mining on the reservation, *U.S. Interior Department*, Interior Department's *Office of Historical Trust Accounting (OHTA)*, *U.S. Bureau of Land Management (BLM)* and its precursor the *General Land Office*, *U.S. Geological Survey (USGS)*, *U.S. Bureau of Mines*, *U.S. Minerals Management Service*, and any Washington state or local agencies. The latter agencies may include, but may not be limited to, the *Washington State Division of Geology* and its predecessors, the *Washington State Department of Natural Resources* and its predecessors, and county offices located in *Ferry and Okanogan Counties* in Washington.

Any and all legal documentation in BIA's possession regarding mines and mining on the Colville Reservation, including, but not limited to, records of any BIA mining claims validation or authentication efforts by BIA or in cooperation with BLM, USGS, the Bureau of Mines, or the federal courts including the *District Court in Spokane, Washington*. We know from other documentation that BIA and BLM, pursuant to congressional mandate, undertook a major effort in the late 1950s and early 1960s to validate mining claims on the Colville Reservation and that this effort was overseen by the federal district court in Spokane. The *Spokane District Office of the BLM* state or regional office for Oregon/Washington was involved as well in this claims validation effort. We also are aware that BIA, beginning in the mid twentieth century, enlisted the aid of USGS field personnel located in the USGS field office in Billings, Montana, to conduct field geological investigations of mine properties on the Colville Reservation.

Based on preliminary investigations, I believe that documentation responsive to this FOIA request will definitely be located at the *Federal Records Center (FRC) in Lenexa, Kansas*. This FRC, which is administered by the National Archives and Records Administration (NARA), was set up some years ago to house relevant federal records collected for the *Cobell* federal case involving management of Indian trust accounts. I have been informed by NARA records managers that *all of the BIA records pertaining to the Colville Indian Reservation which had once been stored at the FRC in Seattle* have been removed to this records center in Lenexa, Kansas. These materials encompass documentation of mines and mining activities on the Colville Reservation, including documents reflecting specific Indian allotments utilized for mining-related operations.

Regarding the responsive materials held at the Lenexa FRC, I also request access to any finding aids, inventories, databases, notes, spreadsheets, and other records guides so that I can assist your search by focusing it as best possible on materials clearly dealing with the Colville Reservation and mining activity thereon.

Other responsive records may be held under BIA control at BIA headquarters within published and unpublished records of the BIA's *Division of Energy and Resources Management* and *Division of Natural Resources*. Reports and files of the BIA regional office in Portland, Oregon, as well as materials held by the *BIA Deputy Directors for Trust Services, Field Operations, and Tribal Services*, respectively, may also be responsive. I am also interested in any responsive materials that may be held in BIA's libraries.

To assist in your search for responsive documents, I have compiled the enclosed charts (under "Enclosure A"), which summarize what I know thus far about mines and mining on the Colville Reservation. Compiled from a variety of sources, the charts list specific mining companies and individuals known to have been associated with mining on the reservation since the late nineteenth century, along with any known dates of such activity.



Reis to Laura Cloud, May 8, 2008

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Please let me know if you should require any further information about any or all of these particular mining operations. I am providing these enclosures in part because I strongly suspect that while many of the BIA records noted above and stored at the FRC in Lenexa, Kansas, are likely filed under "Colville Tribe" or "Colville Reservation," they may also be organized or filed by name of company or individual. I can also provide further details about dates and known or approximate locations, where available, of these mining operations and activities.

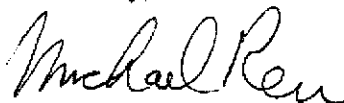
To the extent that any relevant documents are governed by BIA or other access restrictions, I request that you waive these restrictions to allow for release of any materials and/or sanitize the documents for our review. If there are restricted documents that you will not release, I request that you identify any and all such documents by title, listing date, author, recipient(s), and subject matter. I further request to receive any materials you can release as soon as possible, rather than waiting for all responsive documents to clear your review process.

I recognize that the volume of records responsive to this request may be quite large. In the past, other federal agencies have permitted me and other History Associates Incorporated (HAI) researchers to assist in the review of files referenced in FOIA requests. In cases where potentially relevant records are maintained as part of restricted collections, HAI researchers have been granted "need-to-know" access by appropriate government officials. This approach has proven cost-effective for all parties concerned. It allows our researchers to identify a limited number of responsive documents to be copied, thereby reducing the amount of time required by government officials to review and process documents for release and avoiding a time-consuming, item-by-item examination of the requested boxes by government officials. If you are interested in setting up such an arrangement in this instance, please contact me as soon as possible in response to this FOIA request.

I agree to pay all reasonable and standard processing fees authorized by 5 U.S.C. 552 (a)(4)(A) and the applicable regulations up to \$250. If the fees will exceed this amount, please contact me for further authorization.

Should you have any questions regarding this request, please do not hesitate to contact me at (301) 279-9697.

Sincerely,



Michael Reis  
Vice President

Enclosure

MR/cr

ENCLOSURE A

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	Big Chief Mining Company	1898 (located)	Big Chief Group Ripsaw claim Jennie C. claim Little Pet claim Apex claim Carbonate Chief claim Legal Tender claim
Covada/ Enterprise	Hall Creek Mining Co.		Gwin Mine Missing Link claim Iron Cap claim Galena claim Homestake Lode Wizard Lode Big Pete Lode Hall Creek claim B. C. fraction Sunny South Lodes
Covada/ Enterprise	Tom Henneway		Henneway Prospect
Covada/ Enterprise	Meteor Mining Co.	1900 (located)	Meteor Group Meteor claim Peoria claim Ohio Fraction Comet claim
Covada/ Enterprise	R. D. Lorah	1911	St. Paul claim
Covada/ Enterprise	A. M. Anderson	1911-?	Algonquin Lode Silver Spar claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	Advance Mining Company		Rising Sun claim Cora claim Nellie claim White Quart claim Saturday claim Cabin claim Tamarack claim Sunbeam claim Silver Spray claim
Covada/ Enterprise	James Hartwell		L.X.L. claim
Covada/ Enterprise	A.B. Nickens	1907 (located)	Greasy Run claim
Covada/ Enterprise	C.C. Rohlf	owned c. 1913	Mayflower claim Lakeview claim Royal Ann 1, 2, & 3
Covada/ Enterprise	Mr. Messenger of Covada	1909 (located)	Big Joker claim Great Scott claim Imperial claim
Covada/ Enterprise	J. C. Seaman		Kentucky Bell claim Grand view claim Dewey claim (orig.)
Covada/ Enterprise	Mr. Howe	1911 (located)	Silver Crown No. 1, 2 & 3
Covada/ Enterprise	James Hartwell	1909 (located)	Idora claim
Covada/ Enterprise	M.H. O'Connell		Ohio claim Drummond claim Colorado claim No. 1 & 2 Truax claim
Covada/ Enterprise	Edward Sizemore	1912 (located)	Lone Pine claim
Covada/ Enterprise	H.G. Parmeter	1907 (located)	Big Bug
Covada/ Enterprise	Mr. Kelly	1905 (located)	Black Hawk claim St. Patrick claim
Covada/ Enterprise	L.G. Curry	1906 (located)	Cherokee Strip Dan Patch claim Ren Rice claim Reserve claim Ruby claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	G. W. Sizemore		Shoo Fly
		1912 (located)	Robert E. Lee
Covada/ Enterprise	Longstreet Mining and Milling Co.	1903 (located)	Snowstorm (co-owned)
Covada/ Enterprise	Syndicate Group	1907 (located)	Longstreet mine
Covada/ Enterprise	S.L. Magee	1900 (located)	King Fraction claim
Covada/ Enterprise	G.A. Matthews		Oom Paul claim
			Several Fraction
			Keystone
		1912 (located)	Snowstorm, once White Swan (co-owned)
Covada/ Enterprise	G.E. Terpening	1907 (located)	Silver Spar
		1903 (located)	Good Ore
			Several claim
			Imperial claim (co-owned)
			Rosario claim
			Black Thorn claim
Covada/ Enterprise	Black Thorn Mining Co.		Syndicate
Covada/ Enterprise	J.W. Bartlett		Jay Bird claim
Covada/ Enterprise	Ira B. Gifford	1904 (located)	Stray Dog Mine
Covada/ Enterprise	Stray Dog Mining Co.	1902-10?	Montana claim (co-owned)
Covada/ Enterprise	Mr. Fish		Admiral claim
Covada/ Enterprise	Joseph Hartwell		Perry claim
			Vernie claim (co-owned)
Covada/ Enterprise	Mr. Garrett	1899 (located)	Laura S. claim (Ada)
Covada/ Enterprise	E.J. Sparling	1913 (located)	Laura S. claim (Ada)
Covada/ Enterprise	H.A. Pea	1913 (located)	Montana claim
		1899 (located)	Vernie claim
Covada/ Enterprise	Silver Leaf Mining Co.	1905, 1911-2, 1915-6, 1935	Silver Leaf claim
			Buffalo claim
Covada/ Enterprise	Mr. Thompson		Longstreet Mine
Covada/ Enterprise	Big Silver Mining Co.		Cuba Mine
Covada/ Enterprise	Big Lake Mining Co.	mining c. 1947	White Rose mine
Covada/ Enterprise			Sunflower mine
Covada/ Enterprise			New York mine

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Rornulus mine
Covada/ Enterprise			Plymouth Rock mine
Covada/ Enterprise			Ivanhoe mine
Covada/ Enterprise		idle as of 1913	Great Western Mine
Covada/ Enterprise			Orion mine
Covada/ Enterprise		1909	Long Street mine
Covada/ Enterprise			Blue Bird Mine
Covada/ Enterprise			Dixie Queen prospect
Covada/ Enterprise			Neglected prospect
Covada/ Enterprise			Santa Claus prospect
Covada/ Enterprise			Snowstorm prospect
Covada/ Enterprise			Admiral prospect
Covada/ Enterprise			Ajax prospect
Covada/ Enterprise			Captain (Gold Cup) prospect
Covada/ Enterprise			Imperial prospect
Covada/ Enterprise			Dead shot prospect
Covada/ Enterprise			Juliet prospect
Covada/ Enterprise			Elita prospect
Covada/ Enterprise			Syndicate prospect
Covada/ Enterprise			Good Ore prospect
Covada/ Enterprise			Goldsmith prospect
Covada/ Enterprise			Red Chief prospect
Covada/ Enterprise			Dill prospect
Covada/ Enterprise			Prescott prospect
Covada/ Enterprise			Joker prospect
Covada/ Enterprise			Little Jay prospect
Covada/ Enterprise			Discovery prospect
Covada/ Enterprise			Silver Queen prospect
Covada/ Enterprise			Chance prospect
Covada/ Enterprise			Silver Plume prospect
Covada/ Enterprise			Reliance prospect
Covada/ Enterprise			Johnny Boy prospect

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Northern Light prospect
Covada/ Enterprise			King Solomon prospect
Covada/ Enterprise			Quandary prospect
Covada/ Enterprise			Blue Bird prospect
Covada/ Enterprise			Pilgrim prospect
Covada/ Enterprise			Silver Dollar prospect
Covada/ Enterprise			Sunshine prospect
Covada/ Enterprise			Butterfly prospect
Covada/ Enterprise			Ferry prospect
Covada/ Enterprise			Whitetail prospect
Covada/ Enterprise			Polaris prospect
Covada/ Enterprise			Three Pines prospect
Covada/ Enterprise			Old Nell prospect
Covada/ Enterprise			Blacktail prospect
Covada/ Enterprise			Blue Jay prospect
Covada/ Enterprise			Rattlesnake prospect
Covada/ Enterprise			Yellowstone prospect
Covada/ Enterprise			Zearn prospect
Covada/ Enterprise			Silver Bell prospect
Covada/ Enterprise			St. Paul prospect
Covada/ Enterprise			Laurel prospect
Covada/ Enterprise			Rattler prospect
Covada/ Enterprise			J.H.E. prospect
Covada/ Enterprise			Monarch prospect
Covada/ Enterprise			Roulette prospect
Covada/ Enterprise			Great Eastern prospect
Covada/ Enterprise			Cold Spring Group
Covada/ Enterprise			Gold Twenty claim
Covada/ Enterprise			Silver Plume prospect
Covada/ Enterprise			Twin Pines prospect
Covada/ Enterprise			Five Hundred prospect
Covada/ Enterprise			Prince Henry prospect



## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Syracuse prospect
Covada/ Enterprise			White Tail claim
Nespelem/ Moses			Silver Cliff and Newport mines
Nespelem/ Moses			Gould & Curry mine
Nespelem/ Moses			Great Divide mine
Nespelem/ Moses		idle by 1918	Controller and Red Bird mine
Nespelem/ Moses			Ramsey and Hidden treasure mines
Nespelem/ Moses			Par Value Mine
Nespelem/ Moses			Montana Claim
Nespelem/ Moses			Surprise Claim
Nespelem/ Moses			Pittsburg prospect
Nespelem/ Moses			Oversight prospect
Nespelem/ Moses			Multnomah tunnel
Nespelem/ Moses			Sterling claim
Nespelem/ Moses			F. O. Hudnut claim
Nespelem/ Moses			Home Run prospect
Nespelem/ Moses			Modoc prospect
Nespelem/ Moses			Goodenuf prospect
Nespelem/ Moses			Evening prospect
Nespelem/ Moses			Stepstone (Cabin) prospect
Nespelem/ Moses			Jumbo (Greenback) prospect
Nespelem/ Moses			Mohawk prospect
Nespelem/ Moses			Wickerman Placer
Nespelem/ Moses			Peabody placer
Nespelem/ Moses			Goldbug claim
Nespelem/ Moses			Columbia Shipper
Nespelem/ Moses			Cataract claim
Nespelem/ Moses			Keep Cool claim
Nespelem/ Moses			Columbia claim
Nespelem/ Moses			Deer Lick claim
Nespelem/ Moses			River side claim



DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Fair claim
Nespelem/ Moses			Little Gem claim
Nespelem/ Moses			Deer Horn claim
Nespelem/ Moses			Surprise claim
Nespelem/ Moses			Moore claim
Nespelem/ Moses			Blue Bell claim
Nespelem/ Moses			Rising Sun claim
Nespelem/ Moses			Upper Falls claim
Nespelem/ Moses			Little Chief claim
Nespelem/ Moses			Echo claim
Nespelem/ Moses			Mayberry claim
Nespelem/ Moses			Lora A. Claim
Nespelem/ Moses			D'Camp claim
Nespelem/ Moses			Lost Lode
Nespelem/ Moses			Friday claim
Nespelem/ Moses			Combination claim
Nespelem/ Moses			Silver Glance claim
Nespelem/ Moses			Maud S. claim
Nespelem/ Moses			Standard claim
Nespelem/ Moses			Breaubeau claim
Nespelem/ Moses			Loveless claim
Nespelem/ Moses			Lone Pine claim
Nespelem/ Moses			Bales claim
Nespelem/ Moses			Juno claim
Nespelem/ Moses			Bruno claim
Nespelem/ Moses			sulphide claim
Nespelem/ Moses			White claim
Nespelem/ Moses			Hattie E. claim
Nespelem/ Moses			Hattie F.R. claim
Nespelem/ Moses			Silver Wedge claim
Nespelem/ Moses			Black Prince claim
Nespelem/ Moses			Costmas claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Lookout claim
Nespelem/ Moses			Lean Ida claim
Nespelem/ Moses			National Silver claim
Nespelem/ Moses			River View claim
Nespelem/ Moses			United East claim
Nespelem/ Moses			Teddy R. Kickapoo claim
Nespelem/ Moses			Big Four claim
Nespelem/ Moses			Bessie claim
Nespelem/ Moses			Gold Drop claim
Nespelem/ Moses			Enterprise claim
Nespelem/ Moses			Cap Nome claim
Nespelem/ Moses			Smuggler claim
Nespelem/ Moses			Double Header claim
Nespelem/ Moses			Wingate Claim
Nespelem/ Moses			Silver Bell claim
Nespelem/ Moses			Comanche claim
Nespelem/ Moses			Buckeye 1 & 2 claim
Nespelem/ Moses			Dakota claim
Nespelem/ Moses			Silver Tip 1 & 2 claim
Nespelem/ Moses			IAMS claim
Nespelem/ Moses			Hilo claim
Nespelem/ Moses			Persecola claim
Nespelem/ Moses			Baltimore claim
Nespelem/ Moses			Elderado claim
Nespelem/ Moses			Pay Ore claim
Nespelem/ Moses			Sooker claim
Nespelem/ Moses			Call claim
Nespelem/ Moses			Constitution claim
Nespelem/ Moses			International claim
Nespelem/ Moses			Chalcite claim
Nespelem/ Moses			Consolidate claim
Nespelem/ Moses			Hanover claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Michigan claim
Nespelem/ Moses			Detroit claim
Nespelem/ Moses			Hammer claim
Nespelem/ Moses			Mineral Farm claim
Nespelem/ Moses			Boston Crescent claim
Nespelem/ Moses			Yellow king claim
Nespelem/ Moses			Good enough claim
Nespelem/ Moses			Mogul claim
Nespelem/ Moses			Vivian group claim
Nespelem/ Moses			Great West claim
Nespelem/ Moses			Black Tom claim
Nespelem/ Moses			Empire claim
Nespelem/ Moses			Ramsey claim
Nespelem/ Moses			Right of Way claim
Nespelem/ Moses			E.D. Moore claim
Nespelem/ Moses			Sunflower claim
Nespelem/ Moses			Smith claim
Nespelem/ Moses	Apache Mining Co.		Apache Mine
Nespelem/ Moses	Beggs & Miller	1911-12	leased Apache Mine
Nespelem/ Moses	Double Header Mining Co.		Little Chief Mine
Nespelem/ Moses	F. O. Hudnut		Hudnut Claim
Nespelem/ Moses	Rebecca Mining Company		Rebecca Mine
Nespelem/ Moses	Boyles Brothers of Spokane leased Rebecca Mine	1919-?	Rebecca Mine

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses	Kankakee Mining Company		Kankakee Mine/ Mills Kankakee claim Pitts claim Ida B. claim Moos claim Cricke claim Tip Top claim Twilight claim Vera- O claim Moonlight claim Rhea Allen claim Great Mills Apache claim Doub
Nespelem/ Moses	Beggs and Ostrowski		Andy O'Neil Mine
Nespelem/ Moses	Gemini Mines Inc.		Gemini Mine
Nespelem/ Moses	Washington Graphite and Metal Co. (Molybdenum Mining Co.)		
Park City	H.L. Mayberry	1911-12	leased Little Chief Mine
Park City	Castle Creek Mining Co.	1909	Mountain Boy Mines Snowshoe claim Eureka Mine Three L's prospect Summit
Park City	E.M. Cross leased part of Castle Creek Holding	1919	
Park City	John Redmond		Iron Dike prospect
Park City	Ramore Mining Co.	Idle as of 1912	Hercules and Ramore claims
Park City	American Graphite & Metal Corp.		
Park City	Ruby Mines, Inc		Ruby Mines
Park City	Harry Crouse		Bonanza prospect Maid of Erin prospect
Park City	Colville Mining & Smelting Co.	1906	smelting furnaces, power equipment, and crushing machinery stored but not completed

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Park City	Republic Gold Mining and Milling Co.		testing on Ramore property
Park City	Aurora Mining Co.		Aurora (Paramount) Mines
Park City	Union Pacific Railroad	1969	Ramore Mine
Park City	Arco Industries	c. 1969 (exploration)	Wasco Mine
Park City			Independent Mine
Park City			Eureka Mine
Park City			Park claim
Park City			Central claim
Park City			General Miles claim
Park City			Poorman and Cliff prospect
Park City			Sharp & Balthus prospect
Park City			Wasco group claims
Park City			Old Glory prospect
Park City			Moneymaker prospect
Park City			Gove prospect
Park City			Atkins prospect
San Poil/ Keller	Illinois Copper & Silver Mining and Milling Co. claims		
San Poil/ Keller	Iron Creek Mining & Milling Co.		Shamrock (Iron Creek)
San Poil/ Keller	Nesco Mining Corp.	1971 (exploration) 1971-2 (exploration)	Shamrock (Iron Creek) Iron Dike
San Poil/ Keller	Consolidated Mines and Smelting Co., Ltd	orig. owned by Seama	Dewey mine Handspike claim California group Iconoclast group Jumper claim Walla Walla Abe Lincoln Blue Bird Meadow Creek prospect Pole Pick Illinois Golden Cord mine Silver Ridge

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
San Poil/ Keller	Lee Farr		Manila Mine
San Poil/ Keller	Lew Wilmont	idle as of 1912	Vesuvius Prospect
San Poil/ Keller	George Sahnave		Sahnave Claim
San Poil/ Keller	J.H. McJunkin		McJunkin prospect
San Poil/ Keller	E. Schminski		Schminski prospect
San Poil/ Keller	Robert Stotesbury		Stotesbury claim
San Poil/ Keller	Bear Creek Mining Co.	c. 1969 (exploration)	Mount Tolman area, sec. 31
San Poil/ Keller	Kellar & Indiana Consolidated Smelting Co.	1904+	Smelter at Keller
San Poil/ Keller	Pacific Mutual Silver Lead Co. (addison)		Pacific Mutual (Addison) Mine
San Poil/ Keller	Amax Exploration, Inc	1977 (development)	Mount Tolman project
San Poil/ Keller			King Richard Mine
San Poil/ Keller			Last Chance mine
San Poil/ Keller			Congress Mine
San Poil/ Keller			Colorado mines
San Poil/ Keller			Delaware mine
San Poil/ Keller			Golden Cord mine
San Poil/ Keller			Dave Campbell prospect
San Poil/ Keller			Addie B. prospect
San Poil/ Keller			Rover Bonanza group
San Poil/ Keller			North Star prospect
San Poil/ Keller			Golden chariot prospect
San Poil/ Keller			Golden Rule prospect
San Poil/ Keller			Great Northern prospect
San Poil/ Keller			Mono prospect
San Poil/ Keller			Mineral Hill prospect
San Poil/ Keller			Fluorite Vein
San Poil/ Keller			Bodie prospect
San Poil/ Keller			Zip and Tedie claims
San Poil/ Keller			Cougar prospect
San Poil/ Keller			Poor Man's Hope prospect
San Poil/ Keller			Handy Andy prospect
San Poil/ Keller		idle by 1912	Malachite prospect



## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
San Poil/ Keller		idle by 1912	Becher prospect
San Poil/ Keller			U.S. prospect
San Poil/ Keller			Mabel T. patented claims
San Poil/ Keller			Dick Creek prospects
San Poil/ Keller		1964- to 1982 exploratory drilling by Bear Creek Mining Co and Amax, Inc	Mount Tolman deposit
San Poil/ Keller			Anderson prospect
San Poil/ Keller			Burlington & Delaware prospect
San Poil/ Keller			Hines prospect
San Poil/ Keller			Ophir prospect
	Dawn Mining Co.	1960-1	Gold Gulch prospect
	Silver Standard Mines, Ltd		Squam Mountain property
	Takoma Smelting Co.		Meteor mine ships ore
	Humboldt Mining Co.		Humboldt claim
			Auburn claim
			Ore claim
			Quo Vadis claim
	T.B. McCarthy	1912-1917	Jack London lode
	C.H. Neal	1906-?	Little Giant Lode/ Lakeview Lode
	S.M. Neal	1906-?	Copper Belle Lode/ Woodrow Wilson Lode
	R.F. Hightower, William and Charles Saylor	1910-?	Big Iron lode
	Charles Seltice lessee of plot owned by John S. Harris	c. 1925	leased plot for gold Placer mining
	James B. Reed and Sidney P. Gibbs, lessee of plot owned by Charles No Bear, Norbert, or Quintan	1933-?	Lot 10 of section 19 w/in Colville Reservation
	Ray E. Emerson, lessee of plot owned by John Dick, and J. and C. Black	1934-?	Lot 1 of section 23 w/in Colville Reservation
	A.J. Bloom, W.C. Richmond, T.L. Garland, W.H. Moore, lessee of plot owned by John and Lucy Dick	1934	section 31 w/in Colville Reservation

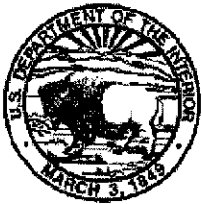
## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
	Eneas Comoshos, Jennie Joseph, Sol Charles Joseph	1935	s. 27 t. 37 r. 9
	Albert (John) Nichols	c. 1934	Sow-ya-ken allotment
			Timm prospect
			Tom, Dick, and Harry prospect
			Windiate-Auberton prospect
			Keno Trail prospect
			Five Lakes- Joe Moses Creek
			Stranger Mountain deposit
			Wilmont Creek (Wilson Columbite) prospect
			Big Lake (Cuban) prospect
			Hoot Owl prospect
			Omak prospect
			Lucky Boy prospect
			Aichen Bee prospect
			Albert Hall prospect
			Algonkin prospect
			Anchor prospect
			Anna prospect
			Bobbie Jay prospect
			Byrne prospect
			Chief Barnaby prospect
			Clay prospect
			Cold Spring prospect
			Controller prospect
			Cooper Antimony prospect
			Corson prospect
			Dry Bone (Duke of Windsor) prospect
			Friedlander prospect
			Frosty Meadow prospect
			Galena prospect
			Gray prospect



## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
			Great Divide prospect
			Hidden treasures prospect
			Idell prospect
			Illinois prospect
			Iron Crown prospect
			Josie prospect
			Kohler prospect
			Kyota prospect
			Lilman prospect
			Little Johnny prospect
			Lois Greenbeck prospect
			Lucky Strike prospect
			Malott prospect
			Mansfield-Garrett prospect
			Mitchem prospect
			Nez Perce prospect
			Nez Perce Creek prospect
			Nora J. Lee prospect
			Panama prospect
			Par Value prospect
		closed as of 1912	Park & Central prospect
			Paulsen prospect
			Rustler prospect
			San Marino prospect
			Section Twelve prospect
			Silver Hill prospect
			Silver King prospect
			Silver Point prospect
			Silver Ridge Group prospect
			Truax prospect
			Tunston prospect
			Wanda Mountain prospect



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



May 12, 2008

Mr. Michael Reis  
Vice-President  
History Associates Incorporated  
300 N. Stonestreet Avenue  
Rockville, Maryland 20850

MAY 15 2008

**Re: FOIA Control No. 08533**

Dear Mr. Reis:


This acknowledges the receipt of your Freedom of Information Act (FOIA) request dated May 09, 2008, and received in this office on May 12, 2008, for copies of any and all documents held by the Bureau of Indian Affairs concerning mining operations, active and non-active mines, and mine exploration, prospects, and development located on the Colville Indian Reservation in the State of Washington. Your request has been assigned FOIA Control No. 08533. Please reference this number on all your correspondence concerning this request.

The Northwest Region program office will advise you of the status of your response within 20 workdays upon receiving the request in their office. If that office anticipates a delay because of unusual circumstances, it may warrant an additional 10-workday extension; however, this office will advise you if this is necessary.

If you have any questions, feel free to contact us at the following address:

Office of the Deputy Assistant Secretary – Indian Affairs (Management)  
Division of Logistics Support Services  
Freedom of Information Act Office  
1849 C Street, NW – MS 3071-MIB  
Washington, DC 20240  
Telephone: (202) 208-4542  
Fax: (202) 208-6597

Sincerely,

 Laura Cloud  
FOIA Officer

**EXHIBIT "B"**



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



November 24, 2008

Mr. Michael Reis  
Vice President  
History Association Incorporated  
300 N. Stonestreet Avenue  
Rockville, Maryland 20850

NOV 26 2008

Re: FOIA Control No. 08533

Dear Mr. Reis:

This letter is a follow-up to our acknowledgment of May 12, 2008. In your May 8, 2008, FOIA request, you sought copies of any and all documents held by the Bureau of Indian Affairs concerning mining operations, active and non-active mines, and mine exploration, prospects, and development located on the Colville Indian Reservation in the State of Washington.

Given the subject of your request, we initiated a search for responsive records within the following Washington D.C. offices (Central Office headquarters): Office of Trust Services, Office of Indian Services, Office of Facilities, Environmental, and Cultural Resources, and Office of Indian Energy and Economic Development, and with the Northwest Regional Office. Despite a thorough and diligent search effort, the requested documents were not located within the offices of Trust Services, Indian Services, and Facilities, Environmental, and Cultural Resources. However, the Office of Indian Energy and Economic Development reported that the Division of Energy and Mineral Development located in Denver, Colorado, might have responsive records.

On September 4, 2008, the Division of Energy and Mineral Development reported they had an estimated 15 cubic feet of files and five boxes which needed to be reviewed by the Solicitor's office. The Division was informed that the attorney would not be able to conduct the review until the last week in September or the week after the Columbus Day Holiday in October. As of this date, the Division is awaiting Solicitor's review of the records and is unable to provide a completion timeframe.

The Northwest Region is still searching for responsive records. For status or progress, you may contact Ms. Marie Howerton, Northwest Regional FOIA Coordinator, at (503) 231-6796. The Northwest Region and the Division of Energy and Mineral Development will respond to you separately. Further, these offices will be communicating with you directly on any and all scope- and/or fee-related issues.

We have been unable to respond to your request within the time limit established by the FOIA due to the voluminous nature of your request and other unforeseen circumstances.

**EXHIBIT "C"**

Please be assured, however, that your request is being handled as equitably as possible, and that all documents which can be released will be made available at the earliest possible date.

You have a right to treat this delay as a denial of your request. You may appeal this matter by writing to:

Freedom of Information Act Appeals Officer  
Department of the Interior  
1849 C Street, NW  
Mail Stop 6556-MIB  
Washington, D.C. 20240

Your appeal must be received by the FOIA Appeals Officer no later than 30 workdays after the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION ACT APPEAL" both on the envelope and the face of the letter. We hope, however, that you will defer action until a decision has been reached on your initial request.

We regret the delay and appreciate your consideration in this matter. Should you have any questions, please contact Cheryl King (202-219-0740) and Susan Stewart-Flannagan (202-208-4499), Office of Indian Energy and Economic Development (Fax: 202-208-4564), Stephen Manydeeds, Division of Energy and Mineral Development, Telephone: (720) 407-0600, Fax: (303) 969-5273, or this office<sup>1</sup> by telephone at (202) 208-4542 or by fax at (202) 208-6597.

Sincerely,



Laura Cloud  
Indian Affairs FOIA Officer

<sup>1</sup> Indian Affairs FOIA Officer, Office of the Deputy Assistant Secretary - Indian Affairs (Management), 1849 C Street, NW, Mail Stop 3071-MIB, Washington, DC 20240.



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December 18, 2008

Mark E. Elliott  
Phone: 213.488.7511  
mark.elliott@pillsburylaw.com

**VIA FEDERAL EXPRESS**

Freedom of Information Act Appeals Officer  
Department of the Interior  
1849 C Street, NW  
Mail Stop 6556-MIB  
Washington, DC 20240

Re: Appeal of Freedom of Information Act Control No. 08533

Dear Sir or Madam:

This is an appeal pursuant to subsection (a)(6) of the Freedom of Information Act ("FOIA"), as amended (5 U.S.C. § 552).

On May 8, 2008, on behalf of Teck Comino Metals, Inc., Michael Reis of History Associates Incorporated requested documents from the U.S. Bureau of Indian Affairs ("BIA") under FOIA (the "FOIA Request"). BIA assigned FOIA Control No. 08533 to Mr. Reis' request.

On November 24, 2008, Laura Cloud, on behalf of BIA, sent a response (the "BIA Response") stating that the requested documents were not located within the offices of Trust Services; Indian Services; and Facilities, Environmental, and Cultural Resources. This letter is a formal appeal of BIA's decision to close the FOIA request with respect to the Office of Trust Services, the Office of Indian Services and the Office of Facilities, Environmental, and Cultural Resources. A copy of the FOIA Request and the BIA Response is attached for your convenience.

The FOIA Request requested all documents held by BIA concerning mining operations, active and non-active mines, and mine exploration, prospects and development located on the Colville Indian Reservation in the State of Washington. Pursuant to FOIA, upon a request for records, BIA "shall make the records promptly available" and must "make reasonable efforts to search for the records in electronic form or format." 5 U.S.C. § 552(a)(3). Based on the fact that it is well known that the Colville Reservation was historically a location of significant hard rock and placer mining, and income from such

December 18, 2008

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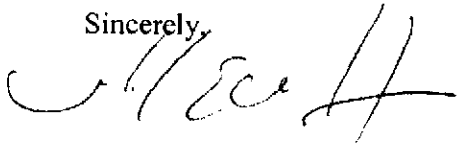
mining would, in some instances, be collected and held in trust for the Colville Tribe, the Office of Trust Services, the Office of Indian Services and the Office of Facilities, Environmental, and Cultural Resources must contain responsive documents. Accordingly, we view BIA's decision to close the FOIA request with respect to these offices as a denial of the FOIA request and appeal that denial.

In addition, the BIA Response states that the Northwest Region and the Division of Energy and Mineral Development are still searching for responsive documents. We acknowledge that the FOIA Request with respect to these offices remains open.

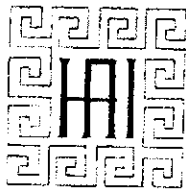
Finally, as noted in the FOIA Request, we believe responsive documentation is located at the Federal Records Center in Lenexa, Kansas. To date, we have not received any documents from the Lenexa repository. Thus, we acknowledge that the FOIA Request with respect to the Federal Records Center in Lenexa, Kansas remains open as well.

Thank you for your consideration of this appeal. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Elliott", written in a cursive style.

Mark E. Elliott



## HISTORY ASSOCIATES INCORPORATED

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May 8, 2008

Ms. Laura Cloud  
Freedom of Information Act Coordinator  
U.S. Bureau of Indian Affairs  
MS-3071, MIB  
1849 C Street, NW  
Washington, DC 20240

### VIA FEDERAL EXPRESS

Dear Ms. Cloud:

Pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552), I am hereby requesting copies of any and all documents held by the U.S. Bureau of Indian Affairs (BIA) concerning mining operations, active and non-active mines, and mine exploration, prospects, and development located on the Colville Indian Reservation in the State of Washington.

Specifically, I am interested in receiving copies of any documentation possessed by BIA and reflecting or describing such activity on the Colville Reservation from the nineteenth century to the present day. Such documentation may include, but may not be limited to, the following types of documents:

Any and all mining agreements, leases, contracts, field notes, deeds, allotment records, claim forms, affidavits, statements, mine inspection or investigation reports, summaries, statistical data, mines and mining plans, maps, blueprints, and photographs in BIA's possession or custody concerning mines and mining on the Colville Reservation.

Any and all reports, studies, and memoranda regarding mines and mining on the Colville Reservation prepared by BIA headquarters, the BIA's Portland, Oregon, regional office (overseeing reservation activity including that on the Colville Reservation), or any other BIA offices or branches with an interest in mines and mining on the Colville Reservation. Also of interest are any reports and memoranda on this topic received by any BIA offices from other sources, including but not limited to, other federal agencies, Washington state agencies, Washington local government agencies, the *Colville Indian Tribe* and *Colville Tribal Business Council*, other Colville Indian offices or consultants, and private mining companies or individuals interested in mining on the reservation.

Any and all official BIA correspondence, between BIA offices or between BIA and other addressees including, but not limited to, the *Colville Indian Tribe* and *Colville Tribal Business Council*, other Colville Indian offices or consultants, private mining



Reis to Laura Cloud, May 8, 2008

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companies or individuals interested in mining on the reservation, *U.S. Interior Department*, Interior Department's *Office of Historical Trust Accounting (OHTA)*, *U.S. Bureau of Land Management (BLM)* and its precursor the *General Land Office*, *U.S. Geological Survey (USGS)*, *U.S. Bureau of Mines*, *U.S. Minerals Management Service*, and any Washington state or local agencies. The latter agencies may include, but may not be limited to, the *Washington State Division of Geology* and its predecessors, the *Washington State Department of Natural Resources* and its predecessors, and county offices located in *Ferry and Okanogan Counties* in Washington.

Any and all legal documentation in BIA's possession regarding mines and mining on the Colville Reservation, including, but not limited to, records of any BIA mining claims validation or authentication efforts by BIA or in cooperation with BLM, USGS, the Bureau of Mines, or the federal courts including the *District Court in Spokane, Washington*. We know from other documentation that BIA and BLM, pursuant to congressional mandate, undertook a major effort in the late 1950s and early 1960s to validate mining claims on the Colville Reservation and that this effort was overseen by the federal district court in Spokane. The *Spokane District Office of the BLM* state or regional office for Oregon/Washington was involved as well in this claims validation effort. We also are aware that BIA, beginning in the mid twentieth century, enlisted the aid of USGS field personnel located in the USGS field office in Billings, Montana, to conduct field geological investigations of mine properties on the Colville Reservation.

Based on preliminary investigations, I believe that documentation responsive to this FOIA request will definitely be located at the *Federal Records Center (FRC) in Lenexa, Kansas*. This FRC, which is administered by the National Archives and Records Administration (NARA), was set up some years ago to house relevant federal records collected for the *Cobell* federal case involving management of Indian trust accounts. I have been informed by NARA records managers that *all of the BIA records pertaining to the Colville Indian Reservation which had once been stored at the FRC in Seattle* have been removed to this records center in Lenexa, Kansas. These materials encompass documentation of mines and mining activities on the Colville Reservation, including documents reflecting specific Indian allotments utilized for mining-related operations.

Regarding the responsive materials held at the Lenexa FRC, I also request access to any finding aids, inventories, databases, notes, spreadsheets, and other records guides so that I can assist your search by focusing it as best possible on materials clearly dealing with the Colville Reservation and mining activity thereon.

Other responsive records may be held under BIA control at BIA headquarters within published and unpublished records of the BIA's *Division of Energy and Resources Management* and *Division of Natural Resources*. Reports and files of the BIA regional office in Portland, Oregon, as well as materials held by the *BIA Deputy Directors for Trust Services, Field Operations, and Tribal Services*, respectively, may also be responsive. I am also interested in any responsive materials that may be held in BIA's libraries.

To assist in your search for responsive documents, I have compiled the enclosed charts (under "Enclosure A"), which summarize what I know thus far about mines and mining on the Colville Reservation. Compiled from a variety of sources, the charts list specific mining companies and individuals known to have been associated with mining on the reservation since the late nineteenth century, along with any known dates of such activity.



Reis to Laura Cloud, May 8, 2008

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Please let me know if you should require any further information about any or all of these particular mining operations. I am providing these enclosures in part because I strongly suspect that while many of the BIA records noted above and stored at the FRC in Lenexa, Kansas, are likely filed under "Colville Tribe" or "Colville Reservation," they may also be organized or filed by name of company or individual. I can also provide further details about dates and known or approximate locations, where available, of these mining operations and activities.


To the extent that any relevant documents are governed by BIA or other access restrictions, I request that you waive these restrictions to allow for release of any materials and/or sanitize the documents for our review. If there are restricted documents that you will not release, I request that you identify any and all such documents by title, listing date, author, recipient(s), and subject matter. I further request to receive any materials you can release as soon as possible, rather than waiting for all responsive documents to clear your review process.

I recognize that the volume of records responsive to this request may be quite large. In the past, other federal agencies have permitted me and other History Associates Incorporated (HAI) researchers to assist in the review of files referenced in FOIA requests. In cases where potentially relevant records are maintained as part of restricted collections, HAI researchers have been granted "need-to-know" access by appropriate government officials. This approach has proven cost-effective for all parties concerned. It allows our researchers to identify a limited number of responsive documents to be copied, thereby reducing the amount of time required by government officials to review and process documents for release and avoiding a time-consuming, item-by-item examination of the requested boxes by government officials. If you are interested in setting up such an arrangement in this instance, please contact me as soon as possible in response to this FOIA request.

I agree to pay all reasonable and standard processing fees authorized by 5 U.S.C. 552 (a)(4)(A) and the applicable regulations up to \$250. If the fees will exceed this amount, please contact me for further authorization.

Should you have any questions regarding this request, please do not hesitate to contact me at (301) 279-9697.

Sincerely,



Michael Reis  
Vice President

Enclosure

MR/cr

ENCLOSURE A

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	Big Chief Mining Company	1898 (located)	Big Chief Group Ripsaw claim Jennie C. claim Little Pet claim Apex claim Carbonate Chief claim Legal Tender claim
Covada/ Enterprise	Hall Creek Mining Co.		Gwin Mine Missing Link claim Iron Cap claim Galena claim Homestake Lode Wizard Lode Big Pete Lode Hall Creek claim B.C. fraction Sunny South Lodes Henneway Prospect
Covada/ Enterprise	Tom Henneway		Meteor Group Meteor claim Peoria claim Ohio Fraction Comet claim
Covada/ Enterprise	Meteor Mining Co.	1900 (located)	
Covada/ Enterprise	R.D. Lorah	1911	St. Paul claim
Covada/ Enterprise	A.M. Anderson	1911-?	Algonquin Lode Silver Spar claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	Advance Mining Company		Rising Sun claim Cora claim Nellie claim White Quart claim Saturday claim Cabin claim Tamarack claim Sunbeam claim Silver Spray claim I.X.L. claim
Covada/ Enterprise	James Hartwell		
Covada/ Enterprise	A.B. Nickens	1907 (located)	Greasy Run claim
Covada/ Enterprise	C.C. Rohlfis	owned c. 1913	Mayflower claim Lakeview claim Royal Ann 1, 2, & 3
Covada/ Enterprise	Mr. Messenger of Covada	1909 (located)	Big Joker claim Great Scott claim Imperial claim
Covada/ Enterprise	J. C. Seaman		Kentucky Bell claim Grand view claim Dewey claim (orig.)
Covada/ Enterprise	Mr. Howe	1911 (located)	Silver Crown No. 1, 2 & 3
Covada/ Enterprise	James Hartwell	1909 (located)	Idora claim
Covada/ Enterprise	M.H. O'Connell		Ohio claim Drummond claim Colorado claim No. 1 & 2 Truax claim
Covada/ Enterprise	Edward Sizemore	1912 (located)	Lone Pine claim
Covada/ Enterprise	H.G. Parmeter	1907 (located)	Big Bug
Covada/ Enterprise	Mr. Kelly	1905 (located)	Black Hawk claim St. Patrick claim
Covada/ Enterprise	L.G. Curry	1906 (located)	Cherokee Strip Dan Patch claim Ren Rice claim Reserve claim Ruby claim
Covada/ Enterprise		1905 (located)	

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## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise	G. W. Sizemore		Shoo Fly
			Robert E. Lee
Covada/ Enterprise	Longstreet Mining and Milling Co.	1912 (located)	Snowstorm (co-owned)
Covada/ Enterprise	Syndicate Group	1903 (located)	Longstreet mine
Covada/ Enterprise	S.L. Magee	1907 (located)	King Fraction claim
Covada/ Enterprise	G.A. Matthews	1900 (located)	Oom Paul claim
			Several Fraction
			Keystone
Covada/ Enterprise	G.E. Terpening	1912 (located)	Snowstorm, once White Swan (co-owned)
		1907 (located)	Silver Spar
			Good Ore
		1903 (located)	Several claim
			Imperial claim (co-owned)
			Rosario claim
Covada/ Enterprise	Black Thorn Mining Co.		Black Thorn claim
Covada/ Enterprise	J.W. Bartlett		Syndicate
Covada/ Enterprise	Ira B. Gifford	1904 (located)	Jay Bird claim
Covada/ Enterprise	Stray Dog Mining Co.	1902-10?	Stray Dog Mine
Covada/ Enterprise	Mr. Fish		Montana claim (co-owned)
Covada/ Enterprise	Joseph Hartwell		Admiral claim
			Perry claim
Covada/ Enterprise	Mr. Garrett	1899 (located)	Vernie claim (co-owned)
Covada/ Enterprise	E. J. Spurling	1913 (located)	Laura S. claim (Ada)
Covada/ Enterprise	H.A. Pea	1913 (located)	Laura S. claim (Ada)
			Montana claim
		1899 (located)	Vernie claim
Covada/ Enterprise	Silver Leaf Mining Co.	1905, 1911-2, 1915-6, 1935	Silver Leaf claim
Covada/ Enterprise	Mr. Thompson		Buffalo claim
Covada/ Enterprise	Big Silver Mining Co.		Longstreet Mine
Covada/ Enterprise	Big Lake Mining Co.	mining c. 1947	Cuba Mine
Covada/ Enterprise			White Rose mine
Covada/ Enterprise			Sunflower mine
Covada/ Enterprise			New York mine

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Romulus mine
Covada/ Enterprise			Plymouth Rock mine
Covada/ Enterprise			Ivanhoe mine
Covada/ Enterprise		Idle as of 1913	Great Western Mine
Covada/ Enterprise			Orion mine
Covada/ Enterprise		1909	Long Street mine
Covada/ Enterprise			Blue Bird Mine
Covada/ Enterprise			Dixie Queen prospect
Covada/ Enterprise			Neglected prospect
Covada/ Enterprise			Santa Claus prospect
Covada/ Enterprise			Snowstorm prospect
Covada/ Enterprise			Admiral prospect
Covada/ Enterprise			Ajax prospect
Covada/ Enterprise			Captain (Gold Cup) prospect
Covada/ Enterprise			Imperial prospect
Covada/ Enterprise			Dead shot prospect
Covada/ Enterprise			Juliet prospect
Covada/ Enterprise			Etta prospect
Covada/ Enterprise			Syndicate prospect
Covada/ Enterprise			Good Ore prospect
Covada/ Enterprise			Goldsmith prospect
Covada/ Enterprise			Red Chief prospect
Covada/ Enterprise			Dill prospect
Covada/ Enterprise			Prescott prospect
Covada/ Enterprise			Joker prospect
Covada/ Enterprise			Little Jay prospect
Covada/ Enterprise			Discovery prospect
Covada/ Enterprise			Silver Queen prospect
Covada/ Enterprise			Chance prospect
Covada/ Enterprise			Silver Plume prospect
Covada/ Enterprise			Reliance prospect
Covada/ Enterprise			Johnny Boy prospect

DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Northern Light prospect
Covada/ Enterprise			King Solomon prospect
Covada/ Enterprise			Quandary prospect
Covada/ Enterprise			Blue Bird prospect
Covada/ Enterprise			Pilgrim prospect
Covada/ Enterprise			Silver Dollar prospect
Covada/ Enterprise			Sunshine prospect
Covada/ Enterprise			Butterfly prospect
Covada/ Enterprise			Ferry prospect
Covada/ Enterprise			Whitetail prospect
Covada/ Enterprise			Polaris prospect
Covada/ Enterprise			Three Pines prospect
Covada/ Enterprise			Old Nell prospect
Covada/ Enterprise			Blacktail prospect
Covada/ Enterprise			Blue Jay prospect
Covada/ Enterprise			Rattlesnake prospect
Covada/ Enterprise			Yellowstone prospect
Covada/ Enterprise			Zearn prospect
Covada/ Enterprise			Silver Bell prospect
Covada/ Enterprise			St. Paul prospect
Covada/ Enterprise			Laurel prospect
Covada/ Enterprise			Rattler prospect
Covada/ Enterprise			J.H.E. prospect
Covada/ Enterprise			Monarch prospect
Covada/ Enterprise			Roulette prospect
Covada/ Enterprise			Great Eastern prospect
Covada/ Enterprise			Cold Spring Group
Covada/ Enterprise			Gold Twenty claim
Covada/ Enterprise			Silver Plume prospect
Covada/ Enterprise			Twin Pines prospect
Covada/ Enterprise			Five Hundred prospect
Covada/ Enterprise			Prince Henry prospect



## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Covada/ Enterprise			Syracuse prospect
Covada/ Enterprise			White Tail claim
Nespelem/ Moses			Silver Cliff and Newport mines
Nespelem/ Moses			Gould & Curry mine
Nespelem/ Moses			Great Divide mine
Nespelem/ Moses		idle by 1918	Controller and Red Bird mine
Nespelem/ Moses			Ramsey and Hidden treasure mines
Nespelem/ Moses			Par Value Mine
Nespelem/ Moses			Montana Claim
Nespelem/ Moses			Surprise Claim
Nespelem/ Moses			Pittsburg prospect
Nespelem/ Moses			Oversight prospect
Nespelem/ Moses			Multnomah tunnel
Nespelem/ Moses			Sterling claim
Nespelem/ Moses			F.O. Hudnut claim
Nespelem/ Moses			Home Run prospect
Nespelem/ Moses			Modoc prospect
Nespelem/ Moses			Goodenuf prospect
Nespelem/ Moses			Evening prospect
Nespelem/ Moses			Stepstone (Cabin) prospect
Nespelem/ Moses			Jumbo (Greenback) prospect
Nespelem/ Moses			Mohawk prospect
Nespelem/ Moses			Wickerman Placer
Nespelem/ Moses			Peabody placer
Nespelem/ Moses			Goldbug claim
Nespelem/ Moses			Columbia Shipper
Nespelem/ Moses			Cataract claim
Nespelem/ Moses			Keep Cool claim
Nespelem/ Moses			Columbia claim
Nespelem/ Moses			Deer Lick claim
Nespelem/ Moses			River side claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Fair claim
Nespelem/ Moses			Little Gem claim
Nespelem/ Moses			Deer Horn claim
Nespelem/ Moses			Surprise claim
Nespelem/ Moses			Moore claim
Nespelem/ Moses			Blue Bell claim
Nespelem/ Moses			Rising Sun claim
Nespelem/ Moses			Upper Falls claim
Nespelem/ Moses			Little Chief claim
Nespelem/ Moses			Echo claim
Nespelem/ Moses			Mayberry claim
Nespelem/ Moses			Lora A. Claim
Nespelem/ Moses			D'Camp claim
Nespelem/ Moses			Lost Lode
Nespelem/ Moses			Friday claim
Nespelem/ Moses			Combination claim
Nespelem/ Moses			Silver Glance claim
Nespelem/ Moses			Maud S. claim
Nespelem/ Moses			Standard claim
Nespelem/ Moses			Breaubeau claim
Nespelem/ Moses			Loveless claim
Nespelem/ Moses			Lone Pine claim
Nespelem/ Moses			Bales claim
Nespelem/ Moses			Juno claim
Nespelem/ Moses			Bruno claim
Nespelem/ Moses			sulphide claim
Nespelem/ Moses			White claim
Nespelem/ Moses			Hattie E. claim
Nespelem/ Moses			Hattie F. R. claim
Nespelem/ Moses			Silver Wedge claim
Nespelem/ Moses			Black Prince claim
Nespelem/ Moses			Costmas claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Lookout claim
Nespelem/ Moses			Lean Ida claim
Nespelem/ Moses			National Silver claim
Nespelem/ Moses			River View claim
Nespelem/ Moses			United East claim
Nespelem/ Moses			Teddy R. Kickapoo claim
Nespelem/ Moses			Big Four claim
Nespelem/ Moses			Bessie claim
Nespelem/ Moses			Gold Drop claim
Nespelem/ Moses			Enterprise claim
Nespelem/ Moses			Cap Nome claim
Nespelem/ Moses			Smuggler claim
Nespelem/ Moses			Double Header claim
Nespelem/ Moses			Wingate Claim
Nespelem/ Moses			Silver Bell claim
Nespelem/ Moses			Comanche claim
Nespelem/ Moses			Buckeye 1 & 2 claim
Nespelem/ Moses			Dakota claim
Nespelem/ Moses			Silver Tip 1 & 2 claim
Nespelem/ Moses			IAMS claim
Nespelem/ Moses			Hilo claim
Nespelem/ Moses			Pensecola claim
Nespelem/ Moses			Baltimore claim
Nespelem/ Moses			Elderado claim
Nespelem/ Moses			Pay Ore claim
Nespelem/ Moses			Sooker claim
Nespelem/ Moses			Call claim
Nespelem/ Moses			Constitution claim
Nespelem/ Moses			International claim
Nespelem/ Moses			Challice claim
Nespelem/ Moses			Consolidate claim
Nespelem/ Moses			Hanover claim

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses			Michigan claim
Nespelem/ Moses			Detroit claim
Nespelem/ Moses			Hammer claim
Nespelem/ Moses			Mineral Farm claim
Nespelem/ Moses			Boston Crescent claim
Nespelem/ Moses			Yellow King claim
Nespelem/ Moses			Good enough claim
Nespelem/ Moses			Mogul claim
Nespelem/ Moses			Vivian group claim
Nespelem/ Moses			Great West claim
Nespelem/ Moses			Black Tom claim
Nespelem/ Moses			Empire claim
Nespelem/ Moses			Ramsey claim
Nespelem/ Moses			Right of Way claim
Nespelem/ Moses			E.D. Moore claim
Nespelem/ Moses			Sunflower claim
Nespelem/ Moses			Smith claim
Nespelem/ Moses	Apache Mining Co.		Apache Mine
Nespelem/ Moses	Beggs & Miller	1911-12	leased Apache Mine
Nespelem/ Moses	Double Header Mining Co.		Little Chief Mine
Nespelem/ Moses	F. O. Hudnut		Hudnut Claim
Nespelem/ Moses	Rebecca Mining Company		Rebecca Mine
Nespelem/ Moses	Boyles Brothers of Spokane leased Rebecca Mine	1919-?	Rebecca Mine

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Nespelem/ Moses	Kankakee Mining Company		Kankakee Mine/ Mills Kankakee claim Pitts claim Ida B. claim Moos claim Cricke claim Tip Top claim Twilight claim Vera- O claim Moonlight claim Rhea Allen claim Great Mills Apache claim Doub
Nespelem/ Moses	Beggs and Ostrowski		Andy O'Neil Mine
Nespelem/ Moses	Gemini Mines Inc.		Gemini Mine
Nespelem/ Moses	Washington Graphite and Metal Co. (Molybdenum Mining Co.)		
Park City	H.L. Mayberry	1911-12	leased Little Chief Mine
Park City	Castle Creek Mining Co.	1909	Mountain Boy Mines Snowshoe claim Eureka Mine Three L's prospect Summit
Park City	E.M. Cross leased part of Castle Creek Holding	1919	
Park City	John Redmond		Iron Dike prospect
Park City	Ramore Mining Co.	Idle as of 1912	Hercules and Ramore claims
Park City	American Graphite & Metal Corp.		
Park City	Ruby Mines, Inc.		Ruby Mines
Park City	Harry Crouse		Bonanza prospect
Park City	Colville Mining & Smelting Co.	1906	Maid of Erin prospect smelting furnaces, power equipment, and crushing machinery stored but not completed

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
Park City	Republic Gold Mining and Milling Co.		testing on Ramore property
Park City	Aurora Mining Co.		Aurora (Paramount) Mines
Park City	Union Pacific Railroad	1969	Ramore Mine
Park City	Arco Industries	c. 1969 (exploration)	Wasco Mine
Park City			Independent Mine
Park City			Eureka Mine
Park City			Park claim
Park City			Central claim
Park City			General Miles claim
Park City			Poorman and Cliff prospect
Park City			Sharp & Balthus prospect
Park City			Wasco group claims
Park City			Old Glory prospect
Park City			Money-maker prospect
Park City			Gove prospect
Park City			Atkins prospect
San Poil/ Keller	Illinois Copper & Silver Mining and Milling Co. claims		
San Poil/ Keller	Iron Creek Mining & Milling Co.		Shamrock (Iron Creek)
San Poil/ Keller	Nesco Mining Corp.	1971 (exploration)	Shamrock (Iron Creek)
San Poil/ Keller	Consolidated Mines and Smelting Co., Ltd	1971-2 (exploration)	Iron Dike
		orig. owned by Seama	Dewey mine
			Handspike claim
			California group
			Iconoclast group
			Jumper claim
			Walla Walla
			Abe Lincoln
			Blue Bird
			Meadow Creek prospect
			Pole Pick
			Illinois
			Golden Cord mine
			Silver Ridge

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
San Poil/ Keller	Lee Farr		Manila Mine
San Poil/ Keller	Lew Wilmont	Idle as of 1912	Vesuvius Prospect
San Poil/ Keller	George Sahnave		Sahnave Claim
San Poil/ Keller	J.H. McJunkin		McJunkin prospect
San Poil/ Keller	E. Schminski		Schminski prospect
San Poil/ Keller	Robert Stotesbury		Stotesbury claim
San Poil/ Keller	Bear Creek Mining Co.	c. 1969 (exploration)	Mount Tolman area, sec. 31
San Poil/ Keller	Kellar & Indiana Consolidated Smelting Co.	1904+	Smelter at Keller
San Poil/ Keller	Pacific Mutual Silver Lead Co. (addison)		Pacific Mutual (Addison) Mine
San Poil/ Keller	Amax Exploration, Inc	1977 (development)	Mount Tolman project
San Poil/ Keller			King Richard Mine
San Poil/ Keller			Last Chance mine
San Poil/ Keller			Congress Mine
San Poil/ Keller			Colorado mines
San Poil/ Keller			Delaware mine
San Poil/ Keller			Golden Cord mine
San Poil/ Keller			Dave Campbell prospect
San Poil/ Keller			Addie B. prospect
San Poil/ Keller			Rover Bonanza group
San Poil/ Keller			North Star prospect
San Poil/ Keller			Golden chariot prospect
San Poil/ Keller			Golden Rule prospect
San Poil/ Keller			Great Northern prospect
San Poil/ Keller			Mono prospect
San Poil/ Keller			Mineral Hill prospect
San Poil/ Keller			Fluorite Vein
San Poil/ Keller			Bodie prospect
San Poil/ Keller			Zip and Tedie claims
San Poil/ Keller			Cougar prospect
San Poil/ Keller			Poor Man's Hope prospect
San Poil/ Keller			Handy Andy prospect
San Poil/ Keller		Idle by 1912	Malachite prospect



## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
San Poil/ Keller		idle by 1912	Belcher prospect
San Poil/ Keller			U.S. prospect
San Poil/ Keller			Mabel T. patented claims
San Poil/ Keller			Dick Creek prospects
San Poil/ Keller		1964- to 1982	Mount Tolman deposit
		exploratory drilling by Bear Creek Mining Co and Amax, Inc	
San Poil/ Keller			Anderson prospect
San Poil/ Keller			Burlington & Delaware prospect
San Poil/ Keller			Hines prospect
San Poil/ Keller			Ophir prospect
	Dawn Mining Co.	1960-1	Gold Gulch prospect
	Silver Standard Mines, Ltd		Squam Mountain property
	Takoma Smelting Co.		Meteor mine ships ore
	Humboldt Mining Co.		Humboldt claim
			Auburn claim
			Ore claim
			Quo Vadis claim
	T. B. McCarthy	1912-1917	Jack London lode
	C. H. Neal	1906-?	Little Giant Lode/ Lakeview Lode
	S. M. Neal	1906-?	Copper Belle Lode/ Woodrow Wilson Lode
	R. F. Hightower, William and Charles Saylor	1910-?	Big Iron lode
	Charles Sellice lessee of plot owned by John S. Harris	c. 1925	leased plot for gold Placer mining
	James B. Reed and Sidney P. Gibbs, lessee of plot owned by Charles No Bear, Norbert, or Quinn-kan	1933-?	Lot 10 of section 19 w/in Colville Reservation
	Ray E. Emerson, lessee of plot owned by John Dick, and J. and C. Black	1934-?	Lot 1 of section 23 w/in Colville Reservation
	A. J. Bloom, W. C. Richmond, T. L. Garland, W. H. Moore, lessee of plot owned by John and Lucy Dick	1934	section 31 w/in Colville Reservation

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
	Eneas Comoshos, Jennie Joseph, Sol Charles Joseph	1935	s. 27 t. 37 r. 9
	Albert (John) Nichols	c. 1934	Sow-ya-ken allotment
			Timin prospect
			Tom, Dick, and Harry prospect
			Windiate-Auberton prospect
			Keno Trail prospect
			Five Lakes- Joe Moses Creek
			Stranger Mountain deposit
			Wilmont Creek (Wilson Columbite) prospect
			Big Lake (Cuban) prospect
			Hoot Owl prospect
			Omak prospect
			Lucky Boy prospect
			Aichen Bee prospect
			Albert Hall prospect
			Algonkin prospect
			Anchor prospect
			Anna prospect
			Bobbie Jay prospect
			Byrne prospect
			Chief Barnaby prospect
			Clay prospect
			Cold Spring prospect
			Controller prospect
			Cooper Antimony prospect
			Corson prospect
			Dry Bone (Duke of Windsor) prospect
			Friedlander prospect
			Frosty Meadow prospect
			Galena prospect
			Gray prospect

## DRAFT

Mining District	Company or Individual Name	Approximate Date	Mine Name
			Great Divide prospect
			Hidden treasures prospect
			Idell prospect
			Illinois prospect
			Iron Crown prospect
			Josie prospect
			Kohler prospect
			Kyola prospect
			Lilman prospect
			Little Johnny prospect
			Lois Greenbeck prospect
			Lucky Strike prospect
			Malott prospect
			Mansfield-Garrett prospect
			Mitchem prospect
			Nez Perce prospect
			Nez Perce Creek prospect
			Nora J. Lee prospect
			Panama prospect
			Par Value prospect
		closed as of 1912	Park & Central prospect
			Paulsen prospect
			Rustler prospect
			San Marino prospect
			Section Twelve prospect
			Silver Hill prospect
			Silver King prospect
			Silver Point prospect
			Silver Ridge Group prospect
			Truax prospect
			Tunison prospect
			Wanda Mountain prospect



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



November 24, 2008

Mr. Michael Reis  
Vice President  
History Association Incorporated  
300 N. Stonestreet Avenue  
Rockville, Maryland 20850

Re: FOIA Control No. 08533

Dear Mr. Reis:

This letter is a follow-up to our acknowledgment of May 12, 2008. In your May 8, 2008, FOIA request, you sought copies of any and all documents held by the Bureau of Indian Affairs concerning mining operations, active and non-active mines, and mine exploration, prospects, and development located on the Colville Indian Reservation in the State of Washington.

Given the subject of your request, we initiated a search for responsive records within the following Washington D.C. offices (Central Office headquarters): Office of Trust Services, Office of Indian Services, Office of Facilities, Environmental, and Cultural Resources, and Office of Indian Energy and Economic Development, and with the Northwest Regional Office. Despite a thorough and diligent search effort, the requested documents were not located within the offices of Trust Services, Indian Services, and Facilities, Environmental, and Cultural Resources. However, the Office of Indian Energy and Economic Development reported that the Division of Energy and Mineral Development located in Denver, Colorado, might have responsive records.

On September 4, 2008, the Division of Energy and Mineral Development reported they had an estimated 15 cubic feet of files and five boxes which needed to be reviewed by the Solicitor's office. The Division was informed that the attorney would not be able to conduct the review until the last week in September or the week after the Columbus Day Holiday in October. As of this date, the Division is awaiting Solicitor's review of the records and is unable to provide a completion timeframe.

The Northwest Region is still searching for responsive records. For status or progress, you may contact Ms. Marie Howerton, Northwest Regional FOIA Coordinator, at (503) 231-6796. The Northwest Region and the Division of Energy and Mineral Development will respond to you separately. Further, these offices will be communicating with you directly on any and all scope- and/or fee-related issues.

We have been unable to respond to your request within the time limit established by the FOIA due to the voluminous nature of your request and other unforeseen circumstances.

Please be assured, however, that your request is being handled as equitably as possible, and that all documents which can be released will be made available at the earliest possible date.

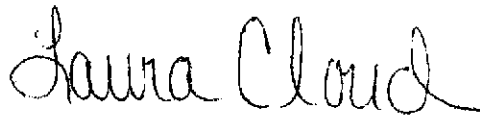
You have a right to treat this delay as a denial of your request. You may appeal this matter by writing to:

Freedom of Information Act Appeals Officer  
Department of the Interior  
1849 C Street, NW  
Mail Stop 6556-MIB  
Washington, D.C. 20240

Your appeal must be received by the FOIA Appeals Officer no later than 30 workdays after the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION ACT APPEAL" both on the envelope and the face of the letter. We hope, however, that you will defer action until a decision has been reached on your initial request.

We regret the delay and appreciate your consideration in this matter. Should you have any questions, please contact Cheryl King (202-219-0740) and Susan Stewart-Flannagan (202-208-4499), Office of Indian Energy and Economic Development (Fax: 202-208-4564), Stephen Manydeeds, Division of Energy and Mineral Development, Telephone: (720) 407-0600, Fax: (303) 969-5273, or this office<sup>1</sup> by telephone at (202) 208-4542 or by fax at (202) 208-6597.

Sincerely,



Laura Cloud  
Indian Affairs FOIA Officer

<sup>1</sup>Indian Affairs FOIA Officer, Office of the Deputy Assistant Secretary - Indian Affairs (Management), 1849 C Street, NW, Mail Stop 3671-MIB, Washington, DC 20240.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



APR 28 2009

MAY - 1 2009

Mr. Michael Reis  
Vice President, History Associates Inc.  
300 N. Stonestreet Avenue  
Rockville, Maryland 20850

Dear Mr. Reis:

On May 8, 2008, you filed a Freedom of Information Act (FOIA) request with the Department of the Interior, Bureau of Indian Affairs, seeking, as reformatted:

"Copies of any and all documents held by the U.S. Bureau of Indian Affairs (BIA) concerning mining operations, active and non-active mines, and mine exploration, prospects, development located on the Colville Reservation in the State of Washington.

Specifically, I am interested in receiving copies of any documents possessed by BIA and reflecting or describing such activity on the Colville Reservation from the nineteenth century to the present day. Such documentation may include, but may not be limited to, the following types of documents:

Any and all mining agreements, leases, contracts, field notes, deeds, allotment records, claim forms, affidavits, statements, mine inspection or investigation reports, . . . "

With respect to your request:

1. We have classified your request as a "commercial-use" request, meaning you are expected to pay for the cost of searching for responsive records, the cost of reviewing responsive records found for release determination, and the cost of duplication of responsive records released. As a matter of policy, however, the Department of the Interior does not bill requesters for FOIA fees incurred in processing requests when their fees do not exceed \$30.00, because the cost of collection would be greater than the fee collected: (See 43 C.F.R. § 2.18(a)).

2. The current Departmental fee schedule, set by our regulations, is \$14.10 per quarter hour of search and of review time for processing of a FOIA request, when the tasks are performed by a managerial level FOIA processor. This means that your promise to pay up to \$250.00 for FOIA processing will support less than 7 hours total search and review time, when accrued at the most

EXHIBIT "E"

66

common rate. The likely number of pages responsive to your request is far too voluminous for us to process without a promise to pay at least \$4,500.00; therefore, we are asking for your promise to pay before we can begin processing your request.

3. Another option available to you is to reduce the scope of your request to satisfy the dollar amount you have agreed to pay. We are ready to assist you in negotiating a workable volume of responsive records.

Our regulations state that, at 43 C.F.R. § 2.8(a) (2):

"The bureau will not begin processing your request until any issues regarding the scope of nature of your request area resolved. When a request is overly broad, unclear, involves an extremely voluminous amount of records, or a burdensome search, the bureau will contact you to identify and clarify the records you are seeking. It will work with you to define the subject matter, clarify terms that are used, or narrow the scope of your request."

If we do not receive the necessary clarification within 20 working days from the date of this letter, we will assume that you are no longer interested in pursuing this request, and will close our files on it, in accordance with 43 C.F.R. § 2.8(a)(3).

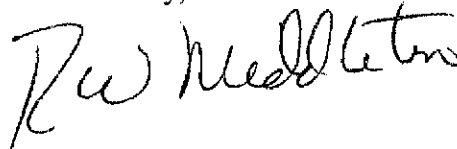
Additionally, until the fee issue is resolved, we cannot begin the processing of this request.

If you have any questions regarding any of the issues discussed in this letter, you may contact Susan Stewart-Flannagan, FOIA Coordinator, by phone at 202-219-0740, by fax at 202-208-4564, by e-mail at [susan.stewart-flannagan@bia.gov](mailto:susan.stewart-flannagan@bia.gov) or by mail at U.S. Department of the Interior, Office of Indian Energy and Economic Development, 1951 Constitution Avenue, NW, Mailstop 20-SIB, Washington, DC 20245.

We apologize for the delay in responding to your request as there has been preliminary consultation with our Solicitor's office to assess the scope of your request and the feasibility of us being able to satisfy your request.

Within the Office of the Secretary, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Robert W. Middleton, Ph.D.  
Director, Office of Indian Energy  
and Economic Development





**History Associates** INC  
THE BEST COMPANY IN HISTORY®

300 N. STONESTREET AVE, ROCKVILLE, MARYLAND 20850  
T 301.279.9697 F 301.279.9224  
WWW.HISTORYASSOCIATES.COM

May 15, 2009

Ms. Susan Stewart-Flannagan  
FOIA Coordinator  
U.S. Department of the Interior  
Office of Indian Energy and Economic Development  
1951 Constitution Avenue, NW  
Mailstop 20-SIB  
Washington, DC 20245

Re: FOIA Control No. 08533

VIA FACSIMILE AND E-MAIL TRANSMISSION

Dear Ms. Stewart-Flannagan:

We have reviewed Dr. Robert Middleton's letter of April 28, 2009 and in response we are formally clarifying our FOIA request of May 8, 2008, as requested by Dr. Middleton.

From Dr. Middleton's letter, we understand that BIA has classified our FOIA request as "commercial use," and that we are expected to pay for the cost of searching for responsive records, the cost of reviewing responsive records found for release determination, and the cost of duplication of responsive records released. We further understand that under the Interior Department's fee schedule, our initial authorization for processing our request up to \$250 is inadequate to complete the work. We are also aware that the "number of pages responsive to [our] request is far too voluminous for BIA to process without a promise to pay at least \$4,500" before you can begin work.

Please note that we do not wish to alter the scope or scale of our original request, including access to or reproduction of potentially responsive records held by the Division of Energy and Mineral Development in Lakewood, Colorado, and at the American Indian Records Repository in Lenexa, Kansas, among other places.

During previous telephone discussions, BIA officials, particularly Mr. Steve Manydeeds of BIA's Division of Energy and Mineral Development, have suggested that many of the requested documents could not be released because the records contain privileged proprietary information that can be withheld under Exemption 3B(7) of FOIA premised upon privileges purportedly

appearing under the Indian Mineral Development Act of 1982 (25 U.S.C. 2103(c)) (the "Act"). We dispute the application of privilege arising under the Act in this instance.

The Act was enacted in 1982 by the U.S. Congress. The implementing regulations for the Act took effect on April 29, 1994. Pursuant to the terms of the regulations and the Act, the privilege cited by BIA officials is only applicable to Mineral Agreements (as defined by the Act) which were entered into after 1982 which had been approved by the Secretary of the Interior ("Secretary"). (25 U.S.C. §§ 2102, 2103) The Act is not retroactive. Mineral agreements entered into after January 1, 1975, but prior to December 22, 1982, may be subject to the Act, but only if approved by the Secretary after 1982. (25 U.S.C. § 2104). Moreover, the Act only applies to mineral agreements entered into by an Indian tribe. The Act does not speak to mining operations by persons other than Indian tribes within reservation lands.

Our FOIA request of May 8, 2008 sought records, "...concerning mining operations, active and non-active mines, and mine exploration, prospects and development located on the Colville Indian reservation in the State of Washington...from the nineteenth century to the present day." As BIA is undoubtedly aware, very little, if any, mining on the Colville Reservation occurred after December 22, 1982. Thus, very little information, if any, in BIA possession, custody, or control which would entail mineral agreements approved by the Secretary. Information generated by the Colvilles or other parties relating to mineral interests on the Colville Reservation which were not generated in relation to post-1982 mineral agreements are similarly unprotected by the Act. Because the Colvilles apparently elected to ban mining on the Colville Reservation in approximately 1984, there would be few, if any, documents which would be subject to disposition of the Act. All other responsive documents must be produced immediately.

Consequently, with this letter, we hereby authorize the Bureau of Indian Affairs to begin processing our FOIA request at an initial cost not to exceed \$4,500, which we promise to pay upon request when that ceiling is reached.

Recognizing that the total cost of processing this FOIA may surpass this amount and that BIA is currently unable to provide us with a more definite total cost estimate, we ask that you notify us before reaching the initial \$4,500 ceiling and provide us with an additional estimate for continuing the processing work, seeking our further authorization as you move forward. Subsequent follow-on estimates and "authorization checkpoints" may be necessary afterward to satisfy our FOIA request.

We further request that as responsive documents are ready for release, copies be provided to us on a rolling basis.

We believe that this is an equitable solution to the fee issue, as raised by Dr. Middleton, and we cordially ask that our FOIA request move forward on this basis.

If you have any questions, please give me or James Rife a call at 301-279-9697.

Sincerely,

A handwritten signature in black ink that reads "Michael C. Reis". The signature is written in a cursive style with a large, stylized "M" and "R".

Michael C. Reis  
Vice President for Litigation Research



Pillsbury Winthrop Shaw Pittman LLP  
725 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-5406 | tel 213.488.7100 | fax 213.629.1033

Mark E. Elliott  
tel 213.488.7511  
mark.elliott@pillsburylaw.com

June 25, 2009

Ms. Susan Stewart-Flannagan  
FOIA Coordinator  
U.S. Department of the Interior  
Office of Indian Energy and Economic Development  
1951 Constitution Avenue, NW  
Mailstop 20-SIB  
Washington, DC 20245

Re: Re. FOIA Control No. 08533  
FREEDOM OF INFORMATION ACT – FAILURE TO RESPOND  
WITHIN STATUTORILY PRESCRIBED TIME FRAME;  
NOTICE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

Dear Ms. Flannagan:

Pursuant to subsection (a)(6) of the Freedom of Information Act ("FOIA"), as amended (5 U.S.C. § 552), this letter confirms the Department of the Interior's failure to respond to our FOIA request to the Department of the Interior, Bureau of Indian Affairs, within the statutorily prescribed time limits. This letter further serves as notice that we and our client have constructively exhausted our administrative remedies and have the right to file an action in federal district court to compel the release of improperly withheld documents. 5 U.S.C. § 552(a)(4)(B). A recitation of the history relating to the FOIA request illustrates this point.

On May 8, 2008, on behalf of Teck Metals Ltd., formerly known as Teck Cominco Metals Ltd. ("Teck"), Michael Reis of History Associates Incorporated requested documents from the U.S. Department of the Interior, Bureau of Indian Affairs ("BIA") under FOIA (the "FOIA Request"). BIA assigned reference number 08533 to Mr. Reis' request.

On April 28, 2009, Robert W. Middleton, on behalf of BIA, responded to Mr. Reis (the "Middleton Letter," attached) stating that BIA classified the request as a "commercial-use" request and that the "commercial-use" designation requires the FOIA requester to pay for the cost of searching for, reviewing, and duplicating

Ms. Susan Stewart-Flannagan  
 June 25, 2009  
 Page 2

responsive records. The Middleton Letter said that the likely number of pages responsive to our request was "too voluminous for us to process without a promise to pay at least \$4,500.00, therefore, we are asking for your promise to pay before we can begin processing your request." BIA also noted that another option to reduce costs would be to reduce the scope of our request. The Middleton Letter provided twenty (20) working days for us to clarify the scope of our request and resolve the fee issue.

On May 15, 2009, within twenty (20) working days of the date the Middleton Letter, Mr. Reis responded to the Middleton Letter and clarified that Teck did not wish to alter the scope or scale of the original request, and promised to pay up to \$4,500 in costs. Mr. Reis also recognized that the total cost of processing the FOIA may surpass the \$4,500 amount, and asked that you notify Teck before reaching the initial \$4,500 ceiling and provide an additional estimate for continuing the processing work, seeking further authorization as BIA moves forward.

The FOIA statute requires that each agency determine within twenty (20) days after the receipt of any request whether to comply with such request and that the agency shall immediately notify the person making such request of its determination and the reasons therefore. 5 U.S.C. § 552(a)(6)(A)(i). It has now been more than twenty (20) days since May 15, 2009, when Mr. Reis responded to the April 28, 2009 Middleton Letter and agreed to pay the necessary fees. Teck has yet to receive any response from your office regarding this FOIA request.

The FOIA statute further provides that "[a]ny person making a request to any agency for records ... shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions...." 5 U.S.C. § 552(a)(6)(C)(i). The case of *Pollack v. Department of Justice*, 49 F.3d 115 (4th Cir. 1995) provides a relevant illustration. In *Pollack*, a suit was filed to enforce a request for documents made under FOIA. The court held that the Department of Justice's lack of a timely response to the plaintiffs' request relieved the plaintiff of any requirement to exhaust administrative remedies. *Id.*, at 117. The court noted that:

"[a]ny person making a request to any agency for records ... *shall be deemed to have exhausted* his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph." [...] Thus, a requester who has not received a timely notice of the agency's decision, as required by 5 U.S.C. § 552(a)(6)(A)(i), may proceed immediately in court to enforce a FOIA request without exhausting any administrative remedies.

Ms. Susan Stewart-Flannagan

June 25, 2009

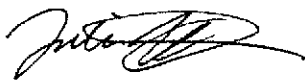
Page 3

*Id.* at 118-119 (emphasis in original).

The same analysis applies in this case. It has been more than the twenty (20) day statutorily prescribed time limit since Teck sent its response to the Middleton Letter, which clarified the scope of the request and promised to pay applicable fees. We have yet to receive a response to the request after responding to Mr. Middleton's request for clarification. Therefore, because BIA has not responded to the FOIA request within the statutorily prescribed time frame Teck has constructively exhausted its administrative remedies and possesses the right to file an action in federal district court to compel the release of improperly withheld documents. 5 U.S.C. § 552(a)(4)(B).

We look forward to any response you may have.

Sincerely,

 (for Mark Elliott)

Mark E. Elliott

Enclosures



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



APR 28 2009

MAY - 1 2009

Mr. Michael Reis  
Vice President, History Associates Inc.  
300 N. Stonestreet Avenue  
Rockville, Maryland 20850

Dear Mr. Reis:

On May 8, 2008, you filed a Freedom of Information Act (FOIA) request with the Department of the Interior, Bureau of Indian Affairs, seeking, as reformatted:

"Copies of any and all documents held by the U.S. Bureau of Indian Affairs (BIA) concerning mining operations, active and non-active mines, and mine exploration, prospects, development located on the Colville Reservation in the State of Washington.

Specifically, I am interested in receiving copies of any documents possessed by BIA and reflecting or describing such activity on the Colville Reservation from the nineteenth century to the present day. Such documentation may include, but may not be limited to, the following types of documents:

Any and all mining agreements, leases, contracts, field notes, deeds, allotment records, claim forms, affidavits, statements, mine inspection or investigation reports, . . . "

With respect to your request:

1. We have classified your request as a "commercial-use" request, meaning you are expected to pay for the cost of searching for responsive records, the cost of reviewing responsive records found for release determination, and the cost of duplication of responsive records released. As a matter of policy, however, the Department of the Interior does not bill requesters for FOIA fees incurred in processing requests when their fees do not exceed \$30.00, because the cost of collection would be greater than the fee collected: (See 43 C.F.R. § 2.18(a)).

2. The current Departmental fee schedule, set by our regulations, is \$14.10 per quarter hour of search and of review time for processing of a FOIA request, when the tasks are performed by a managerial level FOIA processor. This means that your promise to pay up to \$250.00 for FOIA processing will support less than 7 hours total search and review time, when accrued at the most



common rate. The likely number of pages responsive to your request is far too voluminous for us to process without a promise to pay at least \$4,500.00; therefore, we are asking for your promise to pay before we can begin processing your request.

3. Another option available to you is to reduce the scope of your request to satisfy the dollar amount you have agreed to pay. We are ready to assist you in negotiating a workable volume of responsive records.

Our regulations state that, at 43 C.F.R. § 2.8(a) (2):

"The bureau will not begin processing your request until any issues regarding the scope of nature of your request area resolved. When a request is overly broad, unclear, involves an extremely voluminous amount of records, or a burdensome search, the bureau will contact you to identify and clarify the records you are seeking. It will work with you to define the subject matter, clarify terms that are used, or narrow the scope of your request."

If we do not receive the necessary clarification within 20 working days from the date of this letter, we will assume that you are no longer interested in pursuing this request, and will close our files on it, in accordance with 43 C.F.R. § 2.8(a)(3).

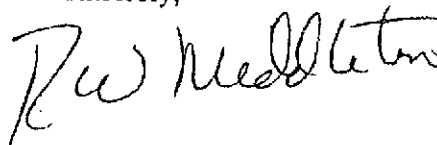
Additionally, until the fee issue is resolved, we cannot begin the processing of this request.

If you have any questions regarding any of the issues discussed in this letter, you may contact Susan Stewart-Flannagan, FOIA Coordinator, by phone at 202-219-0740, by fax at 202-208-4564, by e-mail at [susan.stewart-flannagan@bia.gov](mailto:susan.stewart-flannagan@bia.gov) or by mail at U.S. Department of the Interior, Office of Indian Energy and Economic Development, 1951 Constitution Avenue, NW, Mailstop 20-SIB, Washington, DC 20245.

We apologize for the delay in responding to your request as there has been preliminary consultation with our Solicitor's office to assess the scope of your request and the feasibility of us being able to satisfy your request.

Within the Office of the Secretary, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Robert W. Middleton, Ph.D.  
Director, Office of Indian Energy  
and Economic Development



300 N. STONESTREET AVE, ROCKVILLE, MARYLAND 20850  
T 301.279.9697 F 301.279.9224  
WWW.HISTORYASSOCIATES.COM

May 15, 2009

Ms. Susan Stewart-Flannagan  
FOIA Coordinator  
U.S. Department of the Interior  
Office of Indian Energy and Economic Development  
1951 Constitution Avenue, NW  
Mailstop 20-SIB  
Washington, DC 20245

Re: FOIA Control No. 08533

VIA FACSIMILE AND E-MAIL TRANSMISSION

Dear Ms. Stewart-Flannagan:

We have reviewed Dr. Robert Middleton's letter of April 28, 2009 and in response we are formally clarifying our FOIA request of May 8, 2008, as requested by Dr. Middleton.

From Dr. Middleton's letter, we understand that BIA has classified our FOIA request as "commercial use," and that we are expected to pay for the cost of searching for responsive records, the cost of reviewing responsive records found for release determination, and the cost of duplication of responsive records released. We further understand that under the Interior Department's fee schedule, our initial authorization for processing our request up to \$250 is inadequate to complete the work. We are also aware that the "number of pages responsive to [our] request is far too voluminous for BIA to process without a promise to pay at least \$4,500" before you can begin work.

Please note that we do not wish to alter the scope or scale of our original request, including access to or reproduction of potentially responsive records held by the Division of Energy and Mineral Development in Lakewood, Colorado, and at the American Indian Records Repository in Lenexa, Kansas, among other places.

During previous telephone discussions, BIA officials, particularly Mr. Steve Manydeeds of BIA's Division of Energy and Mineral Development, have suggested that many of the requested documents could not be released because the records contain privileged proprietary information that can be withheld under Exemption 3B(7) of FOIA premised upon privileges purportedly

appearing under the Indian Mineral Development Act of 1982 (25 U.S.C. 2103(c)) (the "Act"). We dispute the application of privilege arising under the Act in this instance.

The Act was enacted in 1982 by the U.S. Congress. The implementing regulations for the Act took effect on April 29, 1994. Pursuant to the terms of the regulations and the Act, the privilege cited by BIA officials is only applicable to Mineral Agreements (as defined by the Act) which were entered into after 1982 which had been approved by the Secretary of the Interior ("Secretary"). (25 U.S.C. §§ 2102, 2103) The Act is not retroactive. Mineral agreements entered into after January 1, 1975, but prior to December 22, 1982, may be subject to the Act, but only if approved by the Secretary after 1982. (25 U.S.C. § 2104). Moreover, the Act only applies to mineral agreements entered into by an Indian tribe. The Act does not speak to mining operations by persons other than Indian tribes within reservation lands.

Our FOIA request of May 8, 2008 sought records, "...concerning mining operations, active and non-active mines, and mine exploration, prospects and development located on the Colville Indian reservation in the State of Washington...from the nineteenth century to the present day." As BIA is undoubtedly aware, very little, if any, mining on the Colville Reservation occurred after December 22, 1982. Thus, very little information, if any, in BIA possession, custody, or control which would entail mineral agreements approved by the Secretary. Information generated by the Colvilles or other parties relating to mineral interests on the Colville Reservation which were not generated in relation to post-1982 mineral agreements are similarly unprotected by the Act. Because the Colvilles apparently elected to ban mining on the Colville Reservation in approximately 1984, there would be few, if any, documents which would be subject to disposition of the Act. All other responsive documents must be produced immediately.

Consequently, with this letter, we hereby authorize the Bureau of Indian Affairs to begin processing our FOIA request at an initial cost not to exceed \$4,500, which we promise to pay upon request when that ceiling is reached.

Recognizing that the total cost of processing this FOIA may surpass this amount and that BIA is currently unable to provide us with a more definite total cost estimate, we ask that you notify us before reaching the initial \$4,500 ceiling and provide us with an additional estimate for continuing the processing work, seeking our further authorization as you move forward. Subsequent follow-on estimates and "authorization checkpoints" may be necessary afterward to satisfy our FOIA request.

We further request that as responsive documents are ready for release, copies be provided to us on a rolling basis.

We believe that this is an equitable solution to the fee issue, as raised by Dr. Middleton, and we cordially ask that our FOIA request move forward on this basis.

If you have any questions, please give me or James Rife a call at 301-279-9697.

Sincerely,

A handwritten signature in black ink that reads "Michael C. Reis". The signature is written in a cursive style with a large, stylized "M" and "R".

Michael C. Reis  
Vice President for Litigation Research

**From:** "Jamie Rife" <jrife@historyassociates.com>  
**To:** "Miller, Julia A." <julia.miller@pillsburylaw.com>  
**Date:** 9/14/2009 2:30 PM  
**Subject:** FW: FOIA Control No. 08533/History Associates' Response to Dr.Robert Middleton's Letter of 04-28-2009

---

From: Susan.Stewart-Flannagan@bia.gov [mailto:Susan.Stewart-Flannagan@bia.gov]  
Sent: Wednesday, July 08, 2009 4:40 PM  
To: Jamie Rife  
Subject: RE: FOIA Control No. 08533/History Associates' Response to Dr. Robert Middleton's Letter of 04-28-2009  
Importance: High

Dear Mr. Rife:

The Department attempts to comply with all mandated regulations relative to FOIA requests. In doing so, we must first consult with our Solicitor's Office for guidance in the release of potential responsive documents. The Solicitor's Office is assisting us in the review of the documents responsive to your request which has caused delays due to scheduling conflicts as the attorney must fly out to Lakewood, Colorado and review the extensive number of documents on site. The attorney has scheduled the review for the week of July 27, 2009. We will then forward you all releasable documents as they are determined up to the amount you agreed to pay.

Your patience is appreciated as the responsive records might be quite volumunous; therefore, review time might also be time consuming.

Susan Stewart Flannagan  
Office of the Assistant Secretary - Indian Affairs  
Office of Indian Energy and Economic Development  
Telephone: (202) 208-4499 Fax: (202) 208-4564  
1951 Constitution Avenue, N.W., Mailstop 20  
Washington, DC 20245

**From:** "Jamie Rife" <jrife@historyassociates.com>  
**To:** "Miller, Julia A." <julia.miller@pillsburylaw.com>  
**Date:** 9/14/2009 2:31 PM  
**Subject:** FW: FOIA Request Update

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**From:** Susan.Stewart-Flannagan@bia.gov [mailto:Susan.Stewart-Flannagan@bia.gov]  
**Sent:** Wednesday, August 12, 2009 3:58 PM  
**To:** Jamie Rife  
**Subject:** FOIA Request Update  
**Importance:** High

Mr. Rife, our attorney has conducted the initial review of all potential responsive documents to your FOIA request. As a result, it has been determined that further consultation with the Department's legal office is necessary to ensure the rights and privileges of all parties concerned are protected.

We appreciate your patience, and a final response will be forthcoming soon.

Susan Stewart Flannagan  
Office of the Assistant Secretary - Indian Affairs  
Office of Indian Energy and Economic Development  
Telephone: (202) 208-4499 Fax: (202) 208-4564  
1951 Constitution Avenue, N.W., Mailstop 20  
Washington, DC 20245

EXHIBIT "I"

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FEB - 9 2009



United States Department of the Interior  
Bureau of Indian Affairs  
Northwest Regional Office  
911 N.E. 11<sup>th</sup> Avenue  
Portland, Oregon 97232-4169



FEB 0 3 2009

In Reply Refer To:  
**08533**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Michael Reis,  
Vice President  
History Associates Incorporated  
300 North Stonestreet Avenue  
Rockville, Maryland 20850

Dear Mr. Reis:

This is in response to your Freedom of Information Act (FOIA) request dated May 8, 2008, and received in this office May 12, 2008. This request has been referenced as **08533**; please refer to this number when addressing this FOIA in the future. You request:

Any and all mining agreements, leases, contracts, field notes, deeds, allotment records, claim forms, affidavits, statements, mine inspection or investigation reports, summaries, statistical data, mines and mining plans, maps, blueprints, and photographs in BIA's possession or custody concerning mines and mining on the Colville Reservation.

You did agree to pay up to \$250.00 for processing fees.

In accordance with the Department of the Interior's regulations (43 C.F.R. § 2.7(d)(1)), in order for a record to be considered subject to a FOIA request, it must be in the possession and control of the Bureau of Indian Affairs at the time it begins its search for records.

Two separate searches were conducted at the Northwest Regional Office and at the Colville Agency with regard to the documents you requested. During both searches, no responsive documents were located. This office was informed the records were not in our possession. Division of Energy and Mineral Development provides oversight responsibility for mining operations for the Bureau of Indian Affairs. Division of Energy and Mineral Development is under the Assistant Secretary, Department of the Interior. Your FOIA requested was properly addressed to Ms. Laura Cloud.

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**EXHIBIT "J"**

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We believe we have no records responsive to your FOIA request. Under law, we are required to advise you of your appeal rights; therefore, if you have additional information (not previously provided in your request letter) that would lead you to believe that documents responsive to your request are, indeed, on file in files maintained by the Bureau of Indian Affairs, you may file a FOIA appeal in accordance with 43 C.F.R. § 2.28(a) (1). You may appeal the no record response as a denial by writing to:

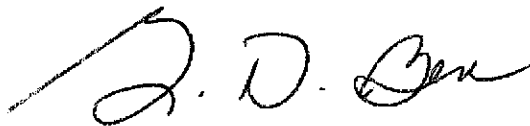
Freedom of Information Act Appeals Officer  
Office of the Chief Information Officer  
U.S. Department of the Interior  
1849 C Street, N.W.  
MS-5312, MIB  
Washington, D.C. 20240

Your appeal must be received no later than 30 workdays after the date of this letter. The appeal should be marked, both on the envelope and the face of the appeal letter, with the words "FREEDOM OF INFORMATION APPEAL." Your appeal should be accompanied by a copy of your original request and this letter, along with any information you have which leads you to believe that responsive records do in fact exist, including where they might be found, if the location is known to you.

This concludes our response to your request.

If you have any questions regarding the FOIA process, please contact Marie Howerton, FOIA Coordinator, at the letterhead address or call (503) 231-6796. The Northwest Regional Office is committed to providing you, our customer, with the highest quality of service possible.

Sincerely,

A handwritten signature in black ink, appearing to read "D. D. Ben". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Northwest Regional Director